

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No. 4604 of 2016

Date of Decision: May 16, 2017

Dinesh and anotherPetitioners

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Manoj K.Tanwar, Advocate for the petitioners.

Mr.Satish Saini, Deputy Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

The instant revision petition is directed against the order dated 23.11.2016 passed by the learned Additional Sessions Judge, Rohtak and whereby the judgment of conviction and order of sentence dated 19.2.2013 passed by the Chief Judicial Magistrate, Rohtak convicting the petitioners for offence under Section 193 of the Indian Penal Code and sentencing them to undergo rigorous imprisonment for one year each, has been dismissed.

2. Brief facts that may require notice are that the petitioners herein are brother and mother of a girl who died of burning within three years of her marriage. The petitioners herein lodged FIR against the husband of the deceased as also his family members. Trial having ensued, petitioners duly appeared to give the testimony and in the examination-in-chief, both the

petitioners made categorical statement that when they reached the Hospital after having learnt of burn injuries to the girl, she told them that her husband had called her inside the room on the pretext of doing some domestic work and then her brother-in-law and husband caught hold of her while her parents-in-law man-handled her and then her husband sprinkled kerosene oil and set her on fire. However, during cross-examination, they exculpated the accused by stating that actually the girl had told them that she had suffered accidental burn injuries, but petitioners had tutored her to make a statement against her husband and against the members of the in-laws.

3. This Court has perused the judgment of conviction and which stands duly confirmed by the Appellate Court. The accused-party i.e. husband and other members of the in-laws family were facing charge under Section 304-B of the Indian Penal Code. By virtue of making the exculpatory statement in the cross-examination, the petitioners herein had made an attempt to have the accused falsely exonerated. Such finding leading to the conviction of the petitioners for offence under Section 193 of the Indian Penal Code is based on relevant and consistent evidence. The judgment of conviction is founded on valid and sound reasoning.

4. Learned counsel appearing for the petitioners makes a statement at bar that he would not have much to say to assail the conviction of the petitioners on merits. He, however, prays for this Court to take a lenient view as regards quantum of sentence.

5. In the considered view of this Court, there are sufficient

mitigating circumstances to accept the limited prayer made by learned counsel representing the petitioners as regards reduction in sentence.

6. It may be noticed that inspite of the statement recorded by the petitioners during the course of cross-examination and a clear attempt having been made to have the accused exonerated, the accused-party were, in fact, convicted. Learned counsel has even adverted to the statements of the petitioners recorded in cross-examination to contend that the petitioners had not resiled from the earlier part of the statement recorded in examination-in-chief as regards demands of dowry having been made by the accused-party. Accordingly, it is contended that the subsequent conduct of the petitioners while recording their cross-examination could not be taken to be a complete retraction.

7. Petitioner No.1 herein, who is the brother of the deceased, is stated to be the lone bread-earner. He has lost his father during the course of trial. Petitioner No.2 i.e. the mother of deceased-girl is aged 70 years old. As per custody certificates of the petitioners furnished by learned State counsel, they have both undergone the actual custody period in excess of five months.

8. In the light of the mitigating circumstances and submissions advanced by learned counsel, this Court is of the view that the ends of justice would be met if the sentence awarded to the petitioners is reduced to eight months rigorous imprisonment.

9. Accordingly, the instant revision is disposed of in terms

of confirming the conviction of the petitioners but reducing substantive sentence awarded to eight months rigorous imprisonment.

10. Petitioners would be released upon completion of such reduced sentence and upon deposit of fine as imposed by the trial Court, if not already paid.

11. Revision petition is disposed of in the aforesaid terms.

May 16, 2017

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* *Yes/No*
 Whether Reportable? *Yes/No*