

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i)

CRR No.1276 of 2017 (O&M)

Varinder Singh and another

...Petitioners

VERSUS

State of Punjab

...Respondent

(ii)

CRR No.1974 of 2017 (O&M)

Jagdev Singh

...Petitioner

VERSUS

Varinder Singh and others

...Respondents

Date of Decision: December 18, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Lovekirat Singh Chahal, Advocate
for the petitioners (in CRR No.1276 of 2017).

Mr.O.P.Kamboj, Advocate
for the petitioner (in CRR No.1974 of 2017) and
for the complainant (in CRR No.1276 of 2017).

Mr.K.S.Aulakh, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected
revisions as the same have arisen from same FIR.

CRR No.1276 of 2017 has been filed by petitioners-accused
challenging the judgment of conviction and order of sentence dated
21.11.2016 passed by learned Addl. Chief Judicial Magistrate, Sri Muktsar

Sahib, vide which the petitioners were convicted under Sections 326, 323, 341 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a maximum period of three years each under Section 326, 326/34 IPC along with fine and also challenging the judgment dated 17.02.2017 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib, vide which the appeal filed by the petitioners was dismissed. All the sentences were ordered to run concurrently.

CRR No.1974 of 2017 has been filed by petitioner-complainant Jagdev Singh under Section 401 Cr.P.C. against the respondents, challenging the judgment of conviction and order of sentence dated 21.11.2016 passed by learned Addl. Chief Judicial Magistrate, Sri Muktsar Sahib, vide which the accused were only convicted and sentenced under Sections 326, 323, 341 read with Section 34 IPC and acquitted under Sections 379 and 356 IPC and judgment dated 17.02.2017 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib, vide which the appeal filed by the petitioner for enhancement of the sentence of accused-respondents was dismissed.

At the time of preliminary hearing, learned counsel for the petitioners-accused did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

CRR No.1974 of 2017 was ordered to be heard along with CRR

From the record, I find that challan was presented against petitioners and co-accused Tejinder Singh @ Jatinder Singh @ Judge in case FIR No.20 dated 27.02.2012 under Sections 323, 325, 324, 341 read with Section 34 IPC. The brief facts of the case as noted down in the judgment passed by learned ACJM, Sri Muktsar Sahib, are as under:-

“2. The prosecution story in brief is that on 25.02.2012, one MLR bearing No.SK/12/12 pertaining to Jagdev Singh son of Pritam Singh, resident of Udeykaran was received at Police Station Sadar from Civil Hospital, Sri Muktsar Sahib, on which, ASI Pritam Singh along with other police officials went to the Civil Hospital, Sri Muktsar Sahib, where Doctor on duty told him that injured Jagdev Singh was referred to GGS Medical College and Hospital, Faridkot and one medical ruqa No.16157, 46158 regarding injured Gurbed Singh son of Chand Singh and Varinder Singh son of Gurbed Singh was received from Adesh Hospital, Sri Muktsar Sahib on which ASI Pritam Singh along with other police officials went to the Adesh Hospital, Sri Muktsar Sahib and obtained the opinion of the doctor on duty who gave the opinion that the injured was unfit to make the statement. On 27.02.2012, ASI Pritam Singh along with other police officials went to GGS Medical College and Hospital, Faridkot and obtained the opinion of the doctor on duty who told him that Jagdev Singh was fit to make his statement who got recorded his statement where he stated that he was resident of Village Udeykaran, Tehsil and District Sri Muktsar Sahib and he was an Advocate by profession and was practicing at Court Complex at Sri Muktsar Sahib. On 24.02.2012, at about 5:00 PM, he along with his wife were returning back to their home after having a round of their fields on their motorcycle make 'Platina'. When they covered some distance from the (Dhani) Hemlet of Fauji Major Singh on the Ferozepur Road leading towards the city, one Mauti Car make 'Zen' came from behind and three persons alighted from it and he did not know one out of these three persons. Out of the said persons, who alighted from the car, Varinder Singh alias Dolly raised a lalkara that they would not spare him and the complainant left his motorcycle there and entered the house of Major Singh Fauji to save himself. The main gate of the house was open and none was present in the house and the rooms were lying locked. Varinder Singh alias Dolly armed with Kappa, Tejinder Singh alias Judge armed with iron rod and Gurbed Singh armed with handle of spade followed him and entered the house in which Jagdev Singh had entered. Varinder Singh alias Dolly gave kappa blow from its sharp side which hit on the left leg of the complainant and he further

gave another kappa blow, which hit below the knee of right leg. Then, Tejinder Singh alias Judge gave iron rod blow below the knee of right leg. Then Gurbed Singh gave a blow with handle of spade and the complainant raised his left hand to ward off the blow and it hit on the outside of its plamer aspect. He along with his wife raised alarm of 'marditta-marditta' which attracted Sarban Singh at the spot and the above persons snatched the gold chain and bracelet of the complainant. When the complainant raised further alarm, the accused persons ran away from the spot with their respective weapons. The reason behind the said occurrence was that the labourer Resham Singh, who was working with Gurbed Singh went to his sister at Village Virk Khera for doing and the above said persons wanted to bring him back forcibly, but Resham Singh did not return, upon this, a fight took place between them. He finally prayed that action be taken against them. On the basis of the above stated statement, ruqa was sent to the police station on the basis of which FIR under Sections 324, 323, 325, 341 IPC read with Section 34 of IPC was registered. The investigation was conducted. On completion of necessary formalities of investigation, challan against the accused was presented in the Court.”

Learned ACJM, Sri Muktsar Sahib convicted and sentenced accused-petitioners vide judgment of conviction and order of sentence dated 21.11.2016 as stated above. Co-accused Tejinder Singh @ Jatinder Singh @ Judge, was declared proclaimed person vide order dated 02.11.2015. An appeal was filed by accused-petitioners against their conviction and an appeal was also filed by complainant for enhancement of the sentence imposed upon the accused and learned Addl. Sessions Judge, Sri Muktsar Sahib, dismissed the appeals filed by complainant as well as accused vide judgment dated 17.02.2017.

Aggrieved from the above-said judgments of conviction and orders of sentence, present revision petitions have been filed by the petitioners-accused and also by the petitioner-complainant.

At the time of arguments, learned counsel for the petitioners-

accused, again did not dispute the concurrent findings of the Courts below

regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioners argued that petitioners are first offenders and sole bread earners of the family. Learned counsel for the petitioners further contended that the petitioners-accused are suffering from the criminal proceedings since 2012.

On the other hand, learned counsel for the petitioner-complainant contended that the sentence imposed upon the accused be enhanced.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the judgments passed by the Courts below shows that the findings have been given as per evidence and law and after appreciating the evidence in right perspective. The judgments of conviction passed by both the Courts below are correct, as per law and do not require any interference from this Court.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners-accused are stated to be first offenders and only bread earners of the family and also in view of the fact that they are facing long protracted criminal proceedings since 2012 i.e. for the last about 5 years, the sentence imposed upon the petitioners is reduced and they are directed to undergo rigorous imprisonment for a period of two years and six months under Sections 326, 326/34 IPC instead of three years. However, other sentences, sentence of fine and in default thereof, shall remain the same. All the sentences are ordered to run concurrently.

With the above-said modification in the sentence, CRR

No.1276 of 2017 stands dismissed.

As regarding CRR No.1974 of 2017, since the sentence of the petitioners-accused has been reduced by this Court for the reasons given above, therefore, question of enhancing the sentence of the petitioners-accused does not arise. Therefore, finding no merit in CRR No.1974 of 2017, the same is also dismissed.

December 18, 2017	(INDERJIT SINGH)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	No