

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

CRR No.1866 of 2017 (O&M).

Decided on:-16.08.2017.

Molu alias Satish and others

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Rajesh Lamba, Advocate
for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (ORAL)

Petitioners, namely, Molu alias Satish, Soni alias Sandeep and Chhinder have filed the present revision petition against the judgment dated 17.03.2017 passed by learned Additional Sessions Judge, Fatehabad whereby their appeal against the judgment of conviction dated 12.09.2014 and order of sentence dated 15.09.2014 passed by learned Chief Judicial Magistrate, Fatehabad, was dismissed.

Briefly stated, an FIR No.31 dated 05.02.2011 under Sections 323 and 324 read with Section 34 IPC was registered against the petitioners-accused at Police Station Bhuna, District Fatehabad on the allegations that on 03.02.2011 at about 6.00 P.M., the petitioners-accused, in furtherance of their common intention, had voluntarily caused hurt to the complainant-injured, namely, Paranjeet with blunt and sharp edged weapons.

The statement of complainant was recorded by the investigating officer and the FIR in question was registered against the accused. After completion of investigation, Challan was presented in the Court. The copies of Challan as envisaged under Section 207 Cr.PC were supplied to the accused free of costs. On finding a prima-facie case, the accused were charge sheeted for the commission of offence punishable under Sections 323 and 324 read with Section 34 IPC to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 12.09.2014 convicted the petitioners for the commission of offence punishable under Sections 323 and 324 read with Section 34 IPC.

Vide separate order dated 15.09.2014, learned trial Court sentenced the petitioners to undergo rigorous imprisonment for a period of six months each for the offence punishable under Section 323 read with Section 34 IPC. Similarly, for the commission of offence punishable under Section 324 read with Section 34 IPC, the petitioners were sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each and in default thereof, to undergo rigorous imprisonment for one month each. It was, however, ordered that both the sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioners preferred an appeal against the said judgment and order of sentence before the Court of Sessions. However, vide judgment dated 17.03.2017 passed by learned Additional Sessions Judge, Fatehabad, appeal of the petitioners was dismissed.

It is in the aforesaid circumstances, the petitioners have filed the present revision petition.

At the outset, learned counsel for the petitioners has not challenged conviction of the petitioners and has confined his arguments qua the quantum of sentence only. He has contended that as against the awarded sentence of two years, the petitioners are in custody since 17.03.2017 i.e. the date when their appeal was dismissed by learned appellate Court.

Learned counsel for the petitioners further states that no serious injury was attributed to petitioners No.1 and 3, namely, Molu alias Satish and Chhinder respectively. The allegation against petitioner No.1 Molu alias Satish is that he had pulled the neck of the injured, whereas petitioner No.3 Chhinder had given hockey blow on the left elbow of the injured. Even as per the medico-legal report, no injury has been shown on the left elbow of the injured. Thus, the only injury which may attract the offence under Section 324 IPC, i.e. knife blow, is attributed to petitioner No.2 Soni alias Sandeep.

He has further contended that the petitioners are first time offenders and there is no other criminal case pending against them. The petitioners have been suffering the agony of criminal proceedings since 05.02.2011 i.e. the date when the FIR in question was registered against them. Thus, he has prayed that the sentence of the petitioners may be reduced to the period already undergone by them.

Learned State counsel has filed the custody certificates of the petitioners in the Court today, which are taken on record. He has not disputed the custody of the petitioners, but has opposed the plea of taking liberal view,

as pleaded by learned counsel for the petitioners. However, he states that there is no other case against the petitioners.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 323 and 324 read with Section 34 IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of petitioners, namely, Molu alias Satish, Soni alias Sandeep and Chhinder is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, admittedly, the petitioners are in custody since 17.03.2017 and no other case is pending against them. They have been facing the agony of criminal proceedings since 05.02.2011 i.e. the date when the FIR in question was registered against them. Therefore, taking into account the protracted trial, antecedents of the petitioners coupled with the fact that they have already suffered incarceration for a period of five months, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of compensation to injured-complainant Paranjeet, as envisaged under Section

357 Cr.P.C. Since the injury with knife blow is attributed to petitioner No.2 Soni alias Sandeep, he shall be liable to pay higher amount of compensation than the other petitioners.

Therefore, sentence of the petitioners is reduced to the period already undergone by them subject to deposit of Rs.25,000/- by petitioner No.2 Soni alias Sandeep and Rs.5,000/- each by petitioners No.1 and 3, namely, Molu alias Satish and Chhinder under Section 357 Cr.P.C. with the trial Court, which shall be paid by the trial Court to the injured-complainant, or his legal heirs, as the case may be.

It is made clear that the petitioners be released only on deposit of the aforesaid amount and their sentence shall stand reduced upto their actual release. In case the amount of compensation is not deposited by the petitioners, they shall be liable to undergo the remaining part of sentence.

However, there will be no change in the sentence of fine. Perusal of the custody certificates of the petitioners reveals that the fine has already been paid by them. Therefore, the petitioners be released forthwith, if not required in any other case, upon deposit of the amount of compensation and their sentence shall be treated reduced upto their actual release, as aforesaid.

With aforesaid modification in the order of sentence, the present revision petition is dismissed.

August 16, 2017

Dinesh/Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No