

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

(i)

CRR No.2033 of 2017 (O&M)

Rajinder Singh and another

...Petitioners

VERSUS

State of Haryana

...Respondent

(ii)

CRR No.2676 of 2017 (O&M)

Dara Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

Date of Decision: November 10, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jitender K. Sehrawat, Advocate
for the petitioners (in CRR No.2033 of 2017).

Mr.Zorawar Singh Chauhan, Advocate
for the petitioner (in CRR No.2676 of 2017).

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Ashwani Bhardwaj, Advocate
for the complainant.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected

provisions as the same have arisen from same FIR.

The present revisions have been filed by the petitioners Rajinder Singh, Subhash @ Molu and Dara Singh against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 24.12.2014 passed by learned Addl. Chief Judicial Magistrate, Hisar, vide which the petitioners were convicted under Sections 326, 324, 323, 342 and 506 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a maximum period two years under Section 326 IPC along with fine and accused-petitioner Dara Singh was also convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹200/- and in default of payment of fine, to undergo simple imprisonment for a period of two months under Section 25 of the Arms Act and also challenging the judgment dated 10.05.2017 passed by learned Addl. Sessions Judge, Hisar, vide which appeal filed by petitioner was dismissed. However, other co-accused were acquitted of the charges framed against them.

From the record, I find that challan was presented against accused-petitioners along with other co-accused in case FIR No.297 dated 24.10.2008 under Sections 147, 148, 149, 323, 324, 342, 326, 506 IPC and Section 25 of the Arms Act. The brief facts of the case as noted down in the judgment passed by learned ACJM, Hisar, are as under:-

“2. The instant FIR was registered on the statement of complainant Rakesh Kumar son of Bishamber Dass, resident of village Meerpur to the effect that he was resident of above mentioned address and was doing the work at a medical store in village Kirmara. On 24.10.2008 at about 4.00 p.m. he was standing in front of his house. In the meantime Dara Singh, Rajender Singh, Jagmahender Singh, Pehli Ram sons of Munshi Ram and Rakesh Kumar and Molu Ram sons of Rajender Singh, Deepa son of Jagmahender, cousin of Dara Singh and brother-in-law of Jagmahender and 2/3 other

persons armed with lathies, danda, sword, saria and rods came there and caused injuries to him. He made hue and cry. On hearing his noise, his father came out from the house and tried to rescue him. Accused also gave beatings to his father. Dara Singh gave a sword blow on his right arm; Jagmahender gave rod blow on his right leg; Rajender gave a iron pipe blow on the Santhal of his right foot and remaining accused gave lathies and danda blow on various part of his body. Thereafter, all the accused persons dragged him to the house of accused Dara Singh. They also dragged his father to the house of Dara Singh . Thereafter they locked him and his father in the separate rooms. The females namely Simitra, Latu Devi, Maria Devi etc. present in the house gave beatings to him and his father. On hearing their noises many people gathered and rescued them from the clutches of the accused. 3. On complaint Ex.PW1/A formal FIR was lodged. Investigation was started. Accused were apprehended. Statements of the witnesses were recorded and after completion of the investigation, challan under Section 173 Cr.P.C. was presented in the court, against the accused.”

In order to prove its case, prosecution examined PW-1 Rakesh Kumar, complainant, PW-2 Bishamber Dass, injured-eye witness, PW-3 SI Ishwar Singh, Retd., PW-4 Sanjay, PW-4A Dr.Manu Tuteja, PW-5 ASI Dharampal, PW-6 Dr.Rakesh Sharma, PW-7 Dr.Samir Kumar and PW-8 ASI Ram Singh, Investigating Officer.

In the statement under Section 313 Cr.P.C., the accused denied all the incriminating evidence and pleaded their innocence. No witness was examined in defence.

Learned ACJM, Hisar, after appreciating the evidence, convicted and sentenced the petitioner as stated above. Appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Hisar, vide judgment dated 10.05.2017.

Aggrieved from the above-said judgments, present revision petition has been filed by the petitioners.

From the record, I find that in the present case, material PWs

i.e. complainant and injured-eye witness and other PWs have consistently deposed regarding the prosecution version. The Doctors have deposed regarding the injuries. The oral evidence has been duly supported by medical evidence. No material discrepancies or improvements have been pointed out in the prosecution version. No material contradictions have been pointed in the statements of the PWs.

Learned counsel for the petitioners argued that there is a cross version and it is a case of free fight, therefore, the petitioners have been wrongly convicted by the Courts below. At the time of arguments, learned counsel for the petitioners admitted that petitioners have not got registered any cross version with the police and no challan has been presented against the complainant party by the police in any cross version. The petitioners' side have not filed any criminal complaint against the present complainant party. As there is no complaint etc. nor the matter was reported to the police, therefore, question of cross-version does not arise. When the accused have not examined any witness to prove that it is a case of free fight nor there is any cross-version, therefore, this arguments of learned counsel for the petitioners has no merit.

I have gone through the statements of the PWs. The witnesses are reliable witnesses. There is nothing to disbelieve their statements. They have consistently deposed regarding the prosecution version. The evidence has been correctly appreciated in right perspective by learned Courts below.

In view of the above discussion, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt against the accused-petitioner. Therefore, the judgments of conviction

any interference from this Court.

Learned counsel for the petitioners, in the alternative, prayed for reduction of sentence imposed upon the petitioners.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are facing long protracted criminal proceedings since 2008 i.e. for the last about 9 years, the sentence imposed upon the petitioners is reduced and they are directed to undergo rigorous imprisonment for a period of one year under Section 326 read Section 34 IPC instead of two years. However, other sentences, sentence of fine and in default thereof, shall remain the same.

With the above-said modification in the sentence, both the revision petitions stand dismissed.

November 10, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No