

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

**CRR No.2053 of 2017 (O&M)
Date of Decision: December 11, 2017**

Hardev Singh and others

...Petitioners

VERSUS

Bawa Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manish Kumar Singla, Advocate for
Mr.S.S.Grewal, Advocate
for the petitioners.

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

INDERJIT SINGH, J.

The present revision has been filed by the petitioners against respondents Bawa Singh and State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 28.09.2012 passed by learned Sub Divisional Judicial Magistrate, Budhlada, vide which the petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹2000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months under Section 148 IPC each, to undergo rigorous imprisonment for a period of three months and to pay fine of ₹500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 427 read with Section 149 IPC each and further to undergo rigorous imprisonment for a period of two years and to pay fine of

imprisonment for a period of six months under Section 447 read with Section 149 IPC each and it was also ordered that 50% of the fine imposed shall be applied towards payment of compensation to the complainant and also challenging the judgment dated 19.05.2017 passed by learned Addl. Sessions Judge, Mansa, vide which appeal filed by petitioners was partly allowed and they were convicted under Section 147 IPC instead of Section 148 IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹2000/- each and their sentence awarded under Section 447 IPC was also modified and they were sentenced to undergo rigorous imprisonment for a period of three months instead of two years and to pay fine of ₹500/- instead of ₹2000/- each and their sentence under Section 427 IPC was maintained. However, co-accused Sadhu Singh, Chuhar Singh and Harpiar Singh were acquitted of the charges framed against them. All the sentences were ordered to run concurrently.

From the record, I find that a complaint was filed against the petitioners and other co-accused under Sections 452, 453, 426, 427, 336, 447, 504, 506, 148 and 149 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Budhlada, are as under:-

“The present complaint has genesis in an incident which is stated to have taken place on 21.08.2004, when the house of the complainant was demolished by the accused. It is contended that the complainant is owner of land in khasra No.98//21 min/0-16-1/2, which he purchased vide sale deed No.500 dated 19.05.1998 from Ghota Singh son of Rattan Singh through his attorney Ajmer Singh, Gurdev Singh sons of Ghota Singh over which, he had constructed a house. On 21.08.2004, at 8 am, the accused came in front of the house, started raising lalkaras and hurling abuses that by construction of the house, the passage had been blocked, whereas no such passage have ever been blocked and when the complainant told the accused that there never been such passage, they got enraged and started pulling down the wall of

the house of the complainant. The accused forcibly entered the house and also pulled down a wall of the room and kitchen. The roof of the room was also demolished. By means of push from the tractor, the wall was demolished. The wife and children of the complainant, raised an alarm at which, brother of the complainant along with Serna Singh son of Seeta Singh came and told the accused that they should not demolish the house of a poor person, at which, Sadhu Singh son of Lai Singh fired a shot from his rifle and proclaimed that in case any person came forward, he would be done to death. Out of fear, the complainant, his wife and children I led from the spot. The accused hurled abuses and stated that in case matter was reported to the police, complainant would be put down to death. Because of the gun shots, terror prevailed in the village and people started gathered at which the accused fled on their tractor. After the incident, the complainant also got photograph of the spot clicked. Complainant informed Jarnail Singh, panch about the incident who advised the complainant to lodge a complaint with the police and together, they went to P.S. Boha and two police officials visited the spot, but returned. Thereafter, the complainant visited the police station on many occasions, but no action was taken. On 10.09.2004, an application was moved before the SSP, Mansa and another application moved before the DSP, Budhlada and also to SDM Budhlada. Till date, police has not taken any action against the accused and thus, accused have committed offenses under Sections 452/453/426/427/336/448/504/506/148/149 of IPC and they be put to trial.”

Learned SDJM, Budhlada after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioners and the same was partly allowed by learned Addl. Sessions Judge, Mansa, vide judgment dated 19.05.2017.

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

At the time of arguments, learned counsel for the petitioners 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 contended that petitioners are first offenders and they are suffering from the criminal proceedings since 2004.

Learned counsel for the petitioners further contended that petitioners have already undergone actual sentence of 7 month and 8 days including remission.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgments of conviction passed by both the Courts below are correct, as per law and do not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are stated to be first offenders and facing long protracted criminal proceedings since 2004 i.e. for the last 13 years and in view of the fact that petitioners have already undergone 7 months and 8 days of actual sentence including remission of 2 months, the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, sentence of fine and in default thereof, shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioners Hardev Singh, Jangir Singh, Binder Singh, Jagdev Singh and Avtar Singh, who are in custody, be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine/compensation, if already not paid.

December 11, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No