

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

CRR No.2111 of 2017 (O&M).

Decided on:-August 03, 2017.

Pawan Kumar and another

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Paramjit Singh Jammu, Advocate
for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

Mr. Varun Sharma, Advocate
for the complainant.

HARI PAL VERMA, J.

CRM-19055-2017

Prayer in this application filed under Section 482 Cr.PC is for placing on record documents i.e. affidavits executed by Santosh and Ram Partap respectively as Annexures P-1 and P-2.

The documents Annexures P-1 and P-2 are taken on record subject to all just exceptions.

CRM stands disposed of.

CRR No.2111 of 2017

Petitioners, namely, Pawan Kumar and Sushila @ Siko have filed the present revision petition challenging the judgment dated 30.05.2017 passed by learned Additional Sessions Judge, Sirsa, whereby their appeal filed

against the judgment of conviction dated 23.09.2014 and order of sentence dated 25.09.2014 passed by learned Judicial Magistrate 1st Class, Sirsa, was dismissed.

Learned Magistrate vide judgment dated 23.09.2014 convicted the petitioners for offence punishable under Sections 323, 324 and 326 read with Section 34 IPC and vide separate order dated 25.09.2014, sentenced them as under:

<u>Under Section</u>	<u>Sentence</u>
323 read with Section 34 IPC	Rigorous imprisonment for a period of one year.
324 read with Section 34 IPC	Rigorous imprisonment for a period of one year.
326 read with Section 34 IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each.

In default of payment of fine, the petitioners-accused were further sentenced to undergo simple imprisonment for six months. It was, however, ordered that all the substantive sentences shall run concurrently.

Briefly stated, case of the prosecution is that on 29.07.2009, complainant Santosh wife of Ram Partap made a statement to the police that she has two sons and three daughters and all of them are married. Her youngest son, namely, Pawan Kumar (petitioner No.1 herein) resides separately from them for the last ten years and he cultivates their land also. However, this time, he did not give the share of agricultural produce to the complainant.

On 28.07.2009, the husband of complainant, namely, Ram Partap

was sitting on the Chabutra in front of his house. Meanwhile, petitioner No.1 Pawan Kumar and his wife Sikko (petitioner No.2 herein) armed with Lathi and Datar came outside. When Ram Partap asked them the reason for not giving the share of agricultural produce, petitioner Pawan Kumar started abusing him. On this, Ram Partap picked up a spade lying on the Chabutra of the house and attempted to give its blow to Pawan Kumar, who got provoked and after snatching spade from Ram Partap started causing injuries to him. When the complainant was trying to rescue her husband, petitioner Siko gave two blows of Dati on the forehead of complainant. When the complainant tried to snatch Dati from Siko, she gave two blows of Dati on her left hand. The complainant raised a noise on which Durga Ram son of Bhoop Singh came there and rescued her. In the meantime, many inhabitants of the village came there and rescued injured Ram Partap from the clutches of the accused. The complainant and her husband were taken to hospital by Durga Ram.

On the basis of statement of the complainant, the FIR No.73 dated 29.07.2009 under Sections 323, 324 and 326 read with Section 34 IPC was registered against the petitioners at Police Station Nathusari Chopta. Statements of witnesses were recorded by the police. Site plan was prepared and the petitioners-accused were arrested. After completion of investigation, Challan was presented in the Court. Copy of challan was supplied to the accused free of costs as envisaged under Section 207 Cr.PC. Thereafter, both the accused were charge-sheeted by the trial Court for the commission of offence under Sections 323, 324 and 326 read with Section 34 IPC to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, the trial Court vide its judgment dated 23.09.2014 and order dated 25.09.2014 convicted and sentenced the petitioners-accused in the manner stated above.

Feeling aggrieved, the petitioners preferred an appeal against the said judgment of conviction and order of sentence before the Court of Session. However, their appeal was also dismissed vide judgment dated 30.05.2017 passed by learned Additional Sessions Judge, Sirsa.

It is in these circumstances, the petitioners have filed the present revision petition challenging the verdicts of the Courts below.

At the outset, learned counsel for the petitioners has not challenged the conviction of the petitioners and has confined his arguments qua the quantum of sentence only. He has submitted that during pendency of the present revision petition, the matter has been compromised between the parties. Both the parties are closely related to each other as petitioner No.1 Pawan Kumar is the youngest son of the complainant Santosh and injured Ram Partap, whereas petitioner No.2 is the wife of petitioner No.1. He has referred to the affidavits executed by Santosh and Ram Partap respectively as Annexures P-1 and P-2 in support of the fact that the matter has been compromised between the parties.

He has further stated that both the petitioners are facing the agony of criminal proceedings since 29.07.2009 i.e. the date when the FIR in question was registered against them. No other case is pending against them and they are first time offenders. As against the awarded sentence of 3 years for offence under Section 326 IPC, they have already undergone

imprisonment for a period of 1 month and 21 days. He has, thus, prayed that the sentence awarded to the petitioners be reduced to the period already undergone by them.

On the other hand, learned State counsel has argued that he has no objection if the sentence of the petitioners is reduced to the period already undergone by them. However, he has contended that taking into consideration the nature of injuries caused by the petitioners, their conviction should be maintained. The custody certificates of both the petitioners filed in the Court today, are taken on record.

Learned counsel for the complainant has also stated that the complainant has no objection in case the sentence awarded to the petitioners is reduced to the period already undergone by them.

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, 324 and 326 read with Section 34 IPC. The appellate Court has also rightly dismissed the 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 both the petitioners is, therefore, affirmed.

However, taking into consideration the fact that both the

petitioners are facing the agony of criminal proceedings since 29.07.2009; they are first time offenders coupled with the fact that both the parties are closely related to each other and during the pendency of the present revision petition, they have compromised the matter, this Court feels that the ends of justice would be met in case the sentence of imprisonment awarded to both the petitioners is reduced to the period already undergone by them.

Ordered accordingly.

However, there will be no change in the sentence of fine.

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

August 03, 2017

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No