

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

**CRR No.2223 of 2017 (O&M)
Date of Decision: October 04, 2017**

Vinod Kumar alias Phulla and others

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pankaj Bali, Advocate
for the petitioners.

Mr.Kuldeep Sharma, DAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners against respondent State of Haryana, challenging the impugned judgment of conviction dated 04.06.2015 and order of sentence dated 05.06.2015 passed by learned Judicial Magistrate Ist Class, Karnal vide which the petitioners were convicted under Sections 148, 323, 325, 452 and 506 IPC and sentenced to undergo rigorous imprisonment for a maximum period of two years under Section 325 IPC along with fine and also challenging the judgment dated 06.06.2017 passed by learned Addl. Sessions Judge, Karnal, vide which appeal filed by petitioners was dismissed. All the sentences were ordered to run concurrently.

At the time of preliminary hearing, 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.

Notice of motion was issued only qua quantum of sentence.

Learned State counsel appeared and contested the petition.

From the record, I find that challan was presented against the petitioners in case FIR No.17 dated 26.01.2011 under Sections 323, 325, 452, 506, 148 read with Section 149 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Karnal, are as under:-

“2. The present FIR was registered against the accused persons on the basis of statement got recorded by complainant Parav Nanda son of Sh.Ashok Kumar R/o Rawar, P.S.Madhuban to the effect that he was resident of abovesaid address and was running a mobile sale purchase shop. That near about 5-6 months ago, he was jointly running poultry Farm with his parter. At that time, Sultan, Gohli, Manjeet, Vinod and Ajay had an altercation with him regarding the said poultry farm but the matter was compromised later in the panchayat. That on 25.1.2011, at about 9.00 p.m, he alongwith his friend Tarun, his father Madan Lal and his family members was present in his house. In view of said grudge, all the assailants armed with deadly weapons came to his house on their respective two motor-cycles and they started abusing them in the street and forcibly entered into his house. All the assailants caught hold of him in the courtyard and started beating him up with the help of deadly weapons. At that time, Madan Lal and Tarun Kumar came at the spot and tried to rescue him from all the assailants then Gohli @ Nikku gave a gandasi blow in the head and arm of the Madan, Vinod @ Phulla gave a lathi blow on the left hand, back side and knee of Tarun Kumar and thereafter, Sultan gave a danda blow to Naresh Kumar, who was standing at the gate. Thereafter, his father and his uncle Rakesh Nanda came running at the spot and rescued him from all the assailants and raised alaram. All the assailants fled away from the spot alongwith their respective deadly weapons threatening them with dire consequences. In this scuffle, he had lost his gold chain. Thereafter, Krishan Lal and his father shifted him and other injured to General Hospital, Karnal for treatment. On the basis of the present statement as well as medico legal reports formal FIR was registered. Investigation commenced; accused were arrested and after completion of investigation final report under Section 173 Cr.P.C. was presented against the

accused in the Court.”

Learned JMIC, Karnal, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Karnal, vide judgment dated 06.06.2017.

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 argued that petitioners are only bread earner of their respective families. He further contended that the petitioners are suffering from the criminal proceedings since 2011 and petitioners Vinod Kumar alias Phulla, Sultan alias Tani and Manjeet alias Chatru have already undergone actual sentence of about 5 months including remission and petitioner Nikku alias Goli has already undergone actual sentence of about 9 months including remission.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are stated to be sole bread earners of their respective families and they are facing long protracted criminal proceedings since 2011 i.e. for the last about 6 years and also in view of the fact that petitioners Vinod Kumar alias Phulla, Sultan alias Tani and Manjeet alias Chatru have already undergone actual sentence of about 5

months whereas petitioner Nikku @ Goli has already undergone about 9 months of actual sentence including remission, the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, the sentence of fine and in default thereof, shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioners Vinod Kumar alias Phulla, Sultan alias Tanni, Nikku alias Goli and Manjeet alias Chatru, 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, if already not paid.

October 04, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No