

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

CRR No.2256 of 2017 (O&M)
Decided on:-November 20, 2017.

Ghamanda Singh and others

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. R.K. Handa, Advocate for
Mr. Madan Sandhu, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab
for the respondent-State.

HARI PAL VERMA, J.

Petitioners, namely, Ghamanda Singh, Bakhshish Singh and Gurmeet Singh have filed the present revision petition against the judgment dated 03.05.2017 passed by learned Additional Sessions Judge, Mansa whereby their appeal against the judgment of conviction and order of sentence dated 04.12.2013 passed by learned Additional Chief Judicial Magistrate, Mansa, was dismissed.

Briefly stated, an FIR No.152 dated 22.11.2007 under Sections 324, 323, 148 and 149 IPC was registered against the petitioners-accused along with other co-accused, namely, Gurpreet Singh and Pargat Singh at Police Station Sadar Mansa, District Mansa on the allegations that on

21.11.2007 at about 7.00 P.M., when complainant Mohinder Singh was walking to his home and when he reached near school road, petitioners-accused Ghamanda Singh holding a Dah, Bakhshish Singh armed with Gandasa, Gurpreet Singh empty handed, Gurmeet Singh holding a Gandasa and Pargat Singh holding a Tamba came there. Accused Ghamanda Singh and Bakhshish Singh raised a Lalkara on which the complainant tried to escape, but the accused followed him and attacked him with their respective weapons. On hearing the cries of the complainant, his father Bant Singh rushed to the spot and then, all the accused ran away from the spot. The injured was taken to the hospital.

The statement of injured-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 326 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 and order dated 04.12.2013 convicted the petitioners and other co-accused, namely, Gurpreet Singh and Pargat Singh and sentenced them as under:

<u>Name of convicts</u>	<u>Offence under Section</u>	<u>Period of Sentence</u>
Bakhshish Singh	326 IPC	Rigorous imprisonment for two

		years and to pay fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.
Ghamanda Singh, Gurmeet Singh, Gurpreet Singh and Pargat Singh	326/34 IPC	Rigorous imprisonment for two years and to pay fine of Rs.1000/- each and in default of payment of fine to further undergo rigorous imprisonment for one month each.
Ghamanda Singh	324 IPC	Rigorous imprisonment for six months.
Bakhshish Singh, Gurmeet Singh, Gurpreet Singh and Pargat Singh	324/34 IPC	Rigorous imprisonment for six months.

It was further ordered that all the sentences shall run concurrently.

Feeling aggrieved, the petitioners and other co-accused, namely, Gurpreet Singh and Pargat Singh preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 03.05.2017 passed by learned Additional Sessions Judge, Mansa, appeal qua the petitioners was dismissed, whereas the appeal qua co-accused, namely, Gurpreet Singh and Pargat Singh was allowed and they were acquitted of the charges framed against them.

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, petitioners Ghamanda Singh and Bakhshish Singh have already undergone imprisonment for more than six months.

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 22.11.2007 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 a 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 326 and 324 read with Section 34 IPC. The appellate Court has also rightly dismissed their 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, Ghamanda Singh, Bakhshish Singh and Gurmeet Singh is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, admittedly, the petitioners have already undergone imprisonment for more than six months including remission and no other case is pending against them. They have been facing the agony of criminal proceedings since 22.11.2007 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 about six months including remission, 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 Mohinder Singh or his legal heirs, as the case may be, as envisaged under Section 357 Cr.P.C. Since the grievous injury inflicted upon the injured is attributed to petitioner No.2 Bakhshish Singh, he shall be liable to pay a 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.30,000/- by petitioner No.2 Bakhshish Singh and Rs.10,000/- each by petitioners No.1 and 3, namely, Ghamanda Singh and Gurmeet Singh as compensation 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.

However, there will be no change in the sentence of fine. Perusal of the judgment dated 04.12.2013 passed by learned trial Court reveals that the fine has already been paid by the petitioners. Therefore, the petitioners be released forthwith, if not required in any other case, upon deposit of the amount of compensation.

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

November 20, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No