

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-3273-2017 (O&M)

Date of Decision:20.11.2017

Jagtar and others

.....Petitioners

Versus

State of Haryana

.....Respondent

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

Present: Mr. R.N. Lohan, Advocate,
for the petitioners.

Mr. Sandeep Vashisht, D.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

Petitioners, who are presently confined in Central Jail No-II, Hisar, have filed the present revision petition against judgment dated 31.08.2017 passed by learned Additional Sessions Judge, Fatehabad, whereby their appeal against judgment of conviction dated 09.09.2014 and order of sentence dated 11.09.2014 passed by learned Additional Chief Judicial Magistrate, Fatehabad in case FIR No.141 dated 08.07.2011 under Sections 148/323/325/149 IPC, Police Station, Bhuna was dismissed.

Vide judgment dated 09.09.2014, learned Magistrate has held the petitioners guilty and convicted them for the offences under Sections 148, 323, 325, 149 IPC and vide separate order dated 11.09.2014, sentenced them as under:-

Under Section 148 IPC

*To undergo rigorous imprisonment
for a period of three years each.*

Under Section 323 IPC

*To undergo rigorous imprisonment
for a period of one year each.*

Under Section 325 IPC

To undergo rigorous Imprisonment for a period of three years and to pay a fine of Rs.2000/- each and in default of payment of fine, to further undergo simple imprisonment for a period of one month each.

All the abovesaid sentences were ordered to run concurrently.

Briefly stated, FIR No.141 dated 08.07.2011 under Sections 148/323/325/149 IPC, Police Station, Bhuna was registered against the petitioners with the allegations that on 06.07.2011 at about 9.30 p.m., when the complainant was returning after taking medicine, the petitioners-accused gave him grievous injuries with their respective weapons. When he made a noise then his brother and wife came at the spot. The accused fled away from the spot with their respective weapons. He was admitted in the hospital by his brother. On the basis of the statement of the complainant, the present FIR was registered.

The matter was investigated and challan was presented in Court. Copies of the challan were supplied to the accused, as envisaged under Section 207 Cr.P.C. free of cost. Finding a *prima facie* case, charge under Sections 148, 323, 325 read with Section 149 IPC was framed against the petitioners, to which they pleaded not guilty and claimed trial.

Learned Magistrate after hearing the parties and appreciating the evidence on record, vide judgment dated 09.09.2014, held the petitioners guilty for committing offence under Sections 148, 323, 325 read with Section 149 IPC and accordingly, convicted and sentenced them, as indicated above.

Aggrieved from the aforesaid judgment and order of sentence, the petitioners preferred an appeal before learned Additional Sessions

Judge, Fatehabad. However, the said appeal was dismissed by the appellate Court and the bail, surety bonds of the petitioners, who were on bail, were cancelled. They were again taken into custody and sent to jail for serving the remaining sentence, as imposed by the trial Court.

It is in these circumstances, the petitioners have filed the present revision petition against the judgment dated 31.08.2017 passed by learned Additional Sessions Judge, Fatehabad.

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 states that taking into consideration the nature of injuries and the fact that the petitioners-accused as well as complainant are of the same village, the petitioners are ready to compensate the injured financially and therefore, this Court may assess suitable compensation viz-a-viz injuries suffered by complainant-Ishwar Singh. The petitioners are not previous convicts and they are not involved in any other case. Thus, taking into account the fact that the petitioners are first time offenders and are suffering a protracted trial for the last more than six years, the sentence awarded to them deserves to be modified and they may be released on probation.

Learned counsel for the petitioners has stated that after their conviction, the pendency of proceedings before the Court below had a desired effect upon the petitioners, as they have now reformed themselves and have not indulged in any criminal activity during the period they remained on bail. At this stage, if the petitioners are directed to undergo the sentence awarded to them, it would have an adverse effect on their families as well. He further submitted that as against the awarded sentence of the

petitioners for a maximum period of three years, they have been in custody for a total period of about three months (02 months and 26 days).

On the other hand, learned State counsel has opposed the prayer made on behalf of the petitioners and stated that such like crimes are on the rise and in case the petitioners are given a lenient treatment in this case, some other individuals will feel encouraged and would commit similar offences which will have an adverse effect so far as discipline in the society is concerned. He has further submitted that since the sentence awarded to the petitioners is in proportion to the offences committed by them, this revision petition be dismissed. Custody certificate of the petitioners produced by learned counsel for the State today in Court, is taken on record. He does not dispute the custody period of the petitioners.

I have heard learned counsel for the parties.

Taking into consideration the fact that learned counsel for the petitioners has addressed his arguments only to the limited extent of quantum of sentence, it is not necessary to divulge into the merits of the case.

This Court feels that the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from a judgment of Hon'ble the Apex Court in the case of ***Karamjit Singh v . State (Delhi Admn.), 2001(9) SCC 161***, wherein the observations made are as under:-

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The

reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Keeping in view the ratio of law laid down in the above-mentioned judgments and fact that the petitioners have not crossed the age whereafter they cannot be reformed, particularly when they are first time offenders and facing the agony of trial for the last about six years, their conviction is upheld. However, they are ordered to be released on probation under Section 4(1) of the Probation of Offenders Act, 1958, for a period of one year, subject to the condition that the petitioners shall file an undertaking before the trial Court that they shall not indulge in any illegal

activity during the said period and will lead the life of a disciplined citizen.

Taking into consideration the nature of injuries and the fact that the petitioners have also suffered long period of litigation from the date of registration of the FIR i.e. from 08.07.2011 and in this manner, have been suffering a protracted trial for more than six years and are in custody for the last about three months, this Court finds that the injured be compensated accordingly.

As per the medical report, injury Nos.2, 5 and 6 were found to be grievous in nature. Injury No.2, which is on the right forearm has been caused by Vijay Kumar @ Bija (petitioner No.4), injury No.5 on the right leg has been inflicted by Krishan (petitioner No.2) and injury No.6 on the little finger of left hand has been attributed to Surender Kumar @ Chinda (petitioner No.5). Accordingly, petitioner Nos.2, 4 and 5 shall pay compensation @ ₹15,000/- each to the complainant within a period of one month from today. The remaining petitioners, who though have not specifically inflicted grievous injuries on the person of the complainant, are required to compensate the injured @ ₹8,000/- each.

In case, the petitioners or either of the petitioners fail to deposit the awarded compensation within the aforesaid period of one month, the present revision petition shall deemed to have been dismissed qua them/him.

With the aforesaid modification, the present revision petition is disposed of.

November 20, 2017
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No