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

CRR-3841-2017[O&M]
Date of Decision:- December 11, 2017

Kanwar Kumar and others Petitioners

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. G.S.Sidhu, Advocate,
for the petitioners.

Mr. Amit Goyal, Advoate,
for the complainant – Jaspal Kumar
and Gindo Devi.

SHEKHER DHAWAN, J.

The above revision petition is directed against the judgment of conviction and order of sentence dated 18.10.2014 passed by Sub Divisional Judicial Magistrate, Dabwali, whereby the revisionists were convicted and sentenced as under:-

Under Section	Sentence	In default
Section 323 read with Section 34 of Indian Penal Code (for short, "I.P.C.")	to undergo Rigorous Imprisonment for One year and to pay fine of ₹1,000/- each.	To further undergo Simple Imprisonment for 5 days.
Section 325 read with Section 34 I.P.C.	to undergo Rigorous Imprisonment for Three years and to pay fine of ₹5000/-.	To further undergo SI for 15 days.

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The sentences were ordered to run concurrently.

2. The appeal filed by the revisionists was dismissed by learned Additional Sessions Judge, Sirsa vide judgment dated 28.09.2017.

3. Facts relevant for the purpose of decision of this revision petition; that process of law was set into motion by complainant – Jaspal Kumar on the ground that on 07.12.2010 at about 2.00 O'clock, he had gone to his house for meal. There is a vacant plot in front of their house. Kanwar Kumar, Gora and Krishan Kumar were doing fencing work in the said plot and the grandmother of the complainant, namely, Gindo Devi asked them not to do the fencing work. On this, accused Gora gave a blow with iron angle on the right left of this grandmother due to which she fell down. The complainant picked his grand mother upon which accused Kanwar Kumar gave a blow with iron rod on his shoulder and right leg and accused Krishan Kumar gave fist blows to him. On raising noise by the complainant, the assailants fled away from the spot with their respective weapons.

4. After completion of investigation, challan was presented in the Court. Learned trial Judge completed various proceedings of trial, including framing of charge against the accused, recording of evidence and examining the accused under Section 313 Cr.P.C., and after considering the prosecution evidence and defence version held the present revisionists guilty and convicted and sentenced them. As mentioned above, the appeal preferred by the revisionists was dismissed by learned Additional Sessions

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Judge vide judgment dated 28.09.2017 and as such the present revision petition before this Court.

5. At the time of arguments, learned counsel for the revisionists restricted his arguments that he does not challenge the judgment of conviction dated 18.10.2014, duly upheld by the first Appellate Court, and the present revision petition be treated qua order of sentence only. The main plea raised by learned counsel for the petitioners is that the petitioners have already undergone much agony of law by facing trial since 2010. More so, the petitioners have undergone more than four months sentence while remaining in custody.

6. Learned counsel for the petitioners has further submitted that both the parties, with the intervention of respectable, have entered into compromise. He has placed on a compromise deed dated 6.12.2017 duly signed by the complainant, Jaspal Kumar and injured, Gindo Devi and their affidavits dated 6.12.2017 to the effect that the parties have compromised the matter. The said compromise deed and affidavits of the complainant and injured, dated 6.12.2017, produced today in the Court, are taken on record.

7. Learned counsel representing the complainant-injured affirmed the fact that the parties have entered into a compromise and urged that if given a chance, the parties will be able to live a peaceful life.

8. As regards to revision against judgment of conviction, both the Courts below have already scanned the entire evidence available on the file

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including the statement of injured eye-witness, which is supported by medical evidence and there is no ground to set-aside the said findings. Taking all these factors into consideration, the present revision petition against judgment of conviction dated 18.10.2014 stands dismissed.

9. Similar matter was before the Hon`ble Division Bench of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013(4) R.C.R. (Criminal) 102** , wherein it has been observed as under:-

“(21). In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would dis-harmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Cr.P.C. after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.”

10. In view of the fact that the parties have settled their dispute amicably and the matter in controversy is such that the same is effecting the parties *inter se* and not against the society at large, the revision petition qua sentence part is partly allowed and the order of sentence dated 18.10.2014 passed by the Court below is modified to the extent that the

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substantive sentence awarded to the petitioners is reduced to the one already undergone by them while in custody.

11. The petition stands disposed of in the above terms.

December 11, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned	Yes
Reportable	Yes