

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 2277 of 2011
Date of Decision: April 17, 2018

Jagir Singh and another
.....Petitioners

versus

State of Haryana
.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate
for the petitioners

Mr. Munish Sharma, AAG Haryana

Sudhir Mittal, J. (Oral)

The petitioners were convicted and sentenced vide judgment and order dated 21.01.2010 passed by the Sub Divisional Judicial Magistrate, Dabwali as follows:-

Offence u/s	Sentence
323 IPC	Rigorous imprisonment for a period of three months and to pay fine of Rs. 200/- each and in default of payment of fine to further undergo rigorous imprisonment for fifteen days.
325 IPC	Rigorous imprisonment for a period of one year and to pay fine of Rs. 300/- each and in default of payment of fine to further undergo rigorous imprisonment for fifteen days.

2. An appeal was preferred by them which was partially allowed vide judgment dated 15.09.2011, by the Sessions Judge, Sirsa. The sentence under Section 323 IPC was reduced to one month and that under Section 325 IPC was reduced to three months, fine remaining the same. The reduction in sentence was

granted on account of the fact that the petitioners had undergone mental agony of a

protracted trial.

3. The present case was registered on the basis of statement of Shanti Devi wife of Gurdev Singh. She stated that on 26.10.2004 at around 4.00 p.m. Mukhtiar Singh son of Maan Singh and his son Jagir Singh threw garbage on the roof of their house which was objected to by her. Thereupon, Mukhtiar Singh attacked her with a *kassi* and Jagir Singh assaulted her. Mukhtiar Singh hit her on the left arm and head. Due to these injuries she became unconscious. Her son shouted for help and came to her rescue but he was also assaulted by the accused. The injured were taken to hospital by one Mangal Singh son of Ruldu Singh.

4. As stated hereinabove, the petitioners were convicted and sentenced.

5. Learned counsel for the petitioners submits that he does not challenge the findings on merits. His only prayer is that the petitioners are first offenders and presently, petitioner No. 2 is already 60 years of age and petitioner No. 1 is about 35 years of age. The conviction is on account of a petty quarrel between neighbours. The petitioners have already suffered the agony of a protracted trial and have undergone actual custody of one month and eight days. Thus, they have suffered on account of their actions and are now reformed persons. They be released on probation of good conduct.

6. However, learned State counsel submits that sympathy has no place in criminal law. The petitioners have committed an offence against the body of the complainant and have to suffer the consequences thereof.

7. Having heard learned counsel for the parties and after perusing the record with their assistance, it is apparent that the present case is result of a petty squabble between neighbours. Such incidents are common in villages. The complainant has not received any severe injuries. The petitioners have already suffered incarceration for one month and eight days out of the maximum sentence of ~~three~~ ^{three} months and have undergone agony of a protracted trial. Thus, in my view

they have been adequately punished for their offences. Criminal law is not only punitive but is also reformative.

8. Thus, having regard to the circumstances of the case, the ends of justice would be met by releasing the petitioners on probation instead of sentencing them. Accordingly, the impugned judgment of conviction dated 21.01.2010, passed by Sub Divisional Judicial Magistrate, Dabwali and upheld by the Sessions Judge, Sirsa vide judgment dated 15.09.2011, is maintained and instead of sentencing them the petitioners – Jagir Singh and Mukhtiar Singh are directed to be released on probation on their entering into a bond each in the sum of Rs. 25,000/- for a period of six months, with one surety in the like amount each, to appear and receive sentence when called upon during that period and that in the meantime to maintain peace and be of good behaviour.

9. The petitioners shall furnish probation bonds, *ibid* to the satisfaction of the Court/successor Court of the Convicting Magistrate/Duty Judicial Magistrate, Dabwali.

10. With the above modification, the instant revision petition stands dismissed.

11. Copy of this judgment be sent to the Court/successor Court of the Convicting Magistrate/Duty Judicial Magistrate, Dabwali for compliance.

April 17, 2018
reena

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No