

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2367 of 2011

DATE OF DECISION: DECEMBER 7, 2018

PREM SINGH AND OTHERS

...PETITIONERS

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. K.S. DADWAL, ADVOCATE FOR THE PETITIONER.
MR. RAMDEEP PARTAP SINGH, DAG, PUNJAB.

MANOJ BAJAJ, J.

The petitioners have preferred this revision petition challenging the judgement dated 23.9.2011 passed by the Addl. Sessions Judge, Hoshiarpur in CrI.A.No.27 of 4.8.2010 whereby the judgement of conviction and order of sentence passed by the trial Court dated 20.7.2010 was maintained.

The petitioners were prosecuted in case FIR No.91 dated 21.7.2004 under Section 325/324/323/148/149 IPC, Police Station Garhshankar.

Learned counsel for the State has apprised the Court that convict Rattan Singh (petitioner No.2) has expired on 21.3.2013 and therefore, the revision qua him has abated.

The brief facts leading to the revision petition are that on a statement made by Piara Singh son of Jiwan Singh resident of village Samundra, Police Station Garhshankar, the above FIR was registered against the petitioners. It has been stated that on 8.7.2004 at about 8.30 a.m.

he went the to joint plot of Shamlat patti of his family in the village to collect firewood. Thereafter, at about 9.15 a.m., Promila wife of Jai Karan and Jai Karan, son of Piara Singh also came at the plot. In the meanwhile, the accused-petitioners also entered the plot and questioned their presence in the plot and raised lalkara and asked them to leave from the plot. Accused Prem Singh asked his co-accused to dig the earth for laying foundation and threatened the complainant party of their life in case they interfered. When the complainant tried to stop the accused, accused Raghbir Singh at the instance of accused Piara Singh caught hold the complainant from his arms, accused Sarbjit Singh caught hold of his neck and within an intention to kill Piara Singh tried to strangle him. On this, Promila and Jai Karan rushed to rescue the complainant and accused Dharamvir attacked Jai Karan with a spade from its reverse side which landed on his back. Accused Prem Singh also gave danda blow on the back of Jai Karan. Accused Rattan Singh gave spade blow from its reverse side on the left ear of Promila. Accused Dharamjit gave a danda blow on Promila on her back. In order to save themselves, the complainant ran away from the spot.

Initially, FIR was registered for the offences under Section 323, 148 and 149 IPC and later on the offence punishable under Section 325 IPC was added. After completion of the investigation, a final report was submitted before the competent Court. After commencement of the trial, the prosecution examined in all 6 witnesses which include the injured Jai Karan, Piara Singh (complainant) (PW3). At this stage, it is necessary to

note that cross-case was also set up by accused Prem Singh son of Jiwan Singh whereupon a separate challan No.101/2 was submitted in FIR No.91 dated 21.7.2004 for the offence under Section 325/324/323/148/149 IPC.

The learned trial Court after examining the evidence on record, arrived at a conclusion that the petitioners herein, i.e. Prem Singh and others were the aggressors and held them guilty for the offence punishable under Section 325/323/149/148 IPC and sentenced them to undergo R.I. for 2 years and to pay a fine of ₹200/- and in default of payment of fine, to undergo a further period of S.I. for 1 month under Section 325 read with Section 149 IPC, R.I. for 1 year and to pay a fine of ₹200/- and in default of payment of fine, to undergo S.I. for a further period of 1 month under Section 323 read with Section 149 IPC and R.I. for 1 year and to pay a fine of ₹100/- and in default of payment of fine, to undergo a further period of S.I. for 15 days under Section 148 IPC.

By way of separate judgement of even date, the cross case set up by Prem Singh against Piara Singh and others ended in their acquittal. It was held that accused Piara Singh and others were victim of aggression. Against the judgement of conviction and the order of sentence, the petitioners preferred Crl.A. No.27 of 4.8.2010 which has been decided against them on 23.9.2011.

Learned counsel appearing on behalf of the petitioners has also apprised the Court that the appeal against acquittal in Challan No.102/2 was also filed, however, the same was also dismissed vide even date judgement dated 23.9.2011.

The petitioners herein challenged the judgement of conviction alone and no appeal against acquittal of Piara Singh and others was filed. Resultantly, the acquittal of Piara Singh and others has attained finality.

Learned counsel appearing on behalf of the petitioners has contended that he does not press challenge to the conviction part in the impugned judgement and confines his prayer only to the sentence part and has prayed for concession of sentencing him for the period already undergone by them.

Learned counsel for the petitioners has contended that the petitioners are at the advance age, petitioner No.1 being more than 83 years of age. Learned counsel has contended that the occurrence in this case had taken place on 8.7.2004 and the parties have already suffered the agony of protracted trial and appeal for a long period of 14 years. It is also contended that the petitioners are not previous convict. They be sentenced to the period already undergone by them.

Considering the above mentioned facts and circumstances, particularly the age of the petitioners, this Court is of the opinion that no useful purpose would be served by sending the petitioners once again in custody for serving the remaining portion of their sentence and ends of justice would be met, if while upholding the conviction of the petitioners, the sentence of the petitioners is modified to the one already undergone by them and at the same is ₹25,000/- is ordered to be paid by them collectively to the complainant and other injured as compensation within 2 months before the trial Court, from the date of receipt of certified copy of this order,

which shall be disbursed to the complainant and the injured.

With the above modification in the sentence, the revision petition stands disposed off.

It is made clear that in case fine is not deposited, the default period of imprisonment shall remain intact.

December 7, 2018
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No