

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr.No.234

CRR-2833-2011(O & M)
Date of Decision:13.12.2018

Surjan @ Chini and another

....petitioners

Versus

State of Haryana

.....respondent

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Ram Kumar Saini, Advocate and
Mr.Rishab Lohan, Advocate
for the petitioners

Mr.Naveen Sheoran, DAG Haryana

Mr.G.S.Sullar, Advocate
for the complainant

ARVIND SINGH SANGWAN, J. (ORAL):

Prayer in this petition is for setting aside the judgement of conviction dated 14.07.2009, passed by the Additional Chief Judicial Magistrate, Ambala, vide which petitioner No.1 Surjan @ Chini was held guilty for offence punishable under Section 326 IPC, petitioner No.2 Maya Ram was held guilty for offence punishable under Section 325 IPC and accused Jagir Singh was held guilty for offence punishable under Section 323 IPC, as well as the order of sentence of the even date, vide which petitioner No.1 Surjan @ Chini was sentenced to undergo rigorous

imprisonment for a period of 05 years and to pay a fine of Rs.3000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of six months and petitioner No.2 Maya Ram was sentenced to undergo rigorous imprisonment for a period of 04 years and to pay a fine of Rs.3000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of four months. The petitioners have also prayed to set aside the judgement dated 05.11.2011 passed by the Lower Appellate Court vide which, while dismissing the appeal filed by the petitioners, their sentence was reduced to two years and one year and six months, respectively, qua both the petitioners Surjan @ Chini and Maya Ram.

Brief facts of the case are that on 03.03.2002, the complainant Avtar Singh-PW4, made a statement before the police in Civil Hospital, Ambala City, that he is residing in village Chaurmastpur and is an agriculturist by profession. He stated that he had installed a pipe underneath the earth in his land, which was adjoining the land of Jagir Singh-accused. On 02.03.2002 he had closed the naka of his pipe and told Jagir Singh not to remove the same. On 03.03.2002 when he visited his fields he found that naka of his underground pipe was lying opened and water was running through the same from the fields of Jagir Singh. The complainant enquired from Jagir Singh why he opened the naka of his underground pipe, whereupon Jagir Singh got aggressive. Jagir Singh, along with the petitioners started beating the complainant. Petitioner No.1 Surjan Singh @ Chini inflicted gandasi blow which hit at the right side head of the

complainant who fell down. Jagir Singh gave kick blows to the complainant. Petitioner No.2 Maya Ram also gave danda blows to the complainant. On raising alarm the complainant was rescued by Gurnam Singh and Jagtar Singh. Gurmeet Singh-brother of the complainant shifted him to Civil Hospital, Ambala City. FIR was registered, accused were arrested and after completion of investigation, report under Section 173 Cr.P.C. was submitted in the Court. The accused were charge sheeted, to which they pleaded not guilty and claimed trial. The petitioners were held guilty by the trial Court and were ordered to undergo the sentence as detailed above.

The sentence of the petitioners was suspended by this Court vide order dated 19.03.2012.

During the pendency of the present petition, the parties had entered into a compromise and they were directed to appear before the Mediation and Conciliation Centre of this Court for recording their respective statements qua the compromise. The Mediator has recorded the statement of Avtar Singh complainant/victim/injured, who has acknowledged the compromise dated 05.12.2018, which has taken place in the village with the intervention of the respectables and family members. In the compromise, it is stated that the petitioners have undertaken to maintain peace and harmony in the village and have redressed their grievance with the complainant.

The Mediator has submitted a settlement agreement, arrived at between the petitioners and victim Avtar Singh s/o Ajmer Singh, in which

the terms and conditions attached as “Annexure A1” have been settled between the parties. The complainant has pardoned the petitioners on the assurance given by them that they will not commit any such act in future and will maintain peace and harmony in the village.

A compromise deed dated 05.12.2018 is also effected between the parties, which is witnessed by the Sarpanch of the Gram Panchayat of the village and is placed on record.

Learned State counsel, as well as learned counsel for the complainant have also not disputed that a valid and legal compromise has been effected between the parties.

Learned State counsel has filed the custody certificates dated 11.12.2018 of both the petitioners and the same are taken on record. As per the custody certificate, petitioner No.1 Surjan @ Chini has undergone 06 months and 03 days of actual sentence and petitioner No.2 Maya Ram has undergone 05 months and 28 days of actual sentence, including the remissions and they are not involved in any other case.

A Division Bench of this Court in ***Sube Singh and another versus State of Haryana and another, 2013(4) RCR (Criminal) 102***, has held that even if the parties have entered into an agreement, during the pendency of the appeal/revision, this Court can exercise power under Section 482 Cr.P.C. and can entertain such compromise in the larger interest of the parties.

In view of the same, this petition is partly allowed, while upholding the judgement of conviction passed by the Courts below. The

sentence awarded to the petitioners as modified by the Lower Appellate Court is reduced to the sentence already undergone by the petitioner. With the aforesaid observations, the petition stands disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

13.12.2018

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Whether speaking/reasoned	Yes/No.
Whether reportable-	Yes/No