

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 2521 of 2013

Date of Decision: January 23, 2018

Darshana and others

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Arvind Bansal, Advocate
for the petitioners

Mr. Munish Sharma, AAG Haryana

Mr. S.S. Hira, Advocate
for respondent No. 2

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Sudhir Mittal, J.

A complaint dated 13.6.2006 was instituted in the Court of Judicial Magistrate Ist Class, Narwana, under Sections 323, 325, 452, 382, 392, 506, 148, 149, 217, 218 IPC against the present petitioners and others. Pursuant thereto, the accused were summoned to face trial.

2. Briefly the facts are that on 17.5.2006, complainant - Parveen son of Buba was watching CD in his house alongwith his sister Kavita and brother-in-law Banti at about 5.00/6.00 p.m. The accused persons came to their house and abused them and caused injuries. Hearing their cries, one Baljeet son of Rulia came at the spot and rescued them. Thereafter, they were got admitted to General Hospital, Narwana by the said Baljeet. On the same date, parents of the complainant were way-laid at about 9.00-9.30 p.m. near village Hansdahar. They were also robbed of ₹ 11,300/-. One Balwan came at the spot to rescue them but he also suffered

injuries. On 18.5.2006, the police came to record the statement but an incomplete

FIR No. 75 dated 24.05.2006 was registered under Sections 323 and 325 IPC only. The FIR was incomplete because only one incident narrated was recorded. The complainant requested the police to record both the incidents but it did not help. Therefore, the present complaint was filed. Vide judgment dated 23.3.2012, learned trial Court convicted the accused-petitioners and sentenced each of them to undergo rigorous imprisonment for six months and to pay fine of ₹ 200/- each for the commission of offence punishable under Section 323 read with Section 149 IPC, rigorous imprisonment for one year and to pay fine of ₹ 300/- each for the commission of offence under Section 325 read with Section 149 IPC, rigorous imprisonment for one year and to pay fine of ₹ 200/- each for commission of offence under Section 452 IPC read with Section 149 IPC, rigorous imprisonment for six months and to pay fine of ₹ 100/- each for commission of offence under Section 148 IPC and rigorous imprisonment for a period of six months and to pay fine of ₹ 200/- each for commission of offence under Section 506 IPC. In default of payment of fine, the accused-petitioners were to further undergo simple imprisonment for three months. All the sentences were directed to run concurrently.

3. An appeal was filed against the aforementioned judgment of conviction and order of sentence. Learned Appellate Court did not find any merit therein and dismissed the same vide judgment dated 13.6.2013. Hence, the present revision petition has been preferred.

4. I have heard learned counsel for the petitioners and counsel for the State as well as the complainant and with their assistance have perused the record.

5. The medical evidence on record corroborates the ocular testimony. Balwan, one of the injured had sustained a fracture in his right arm. This injury is proved by Dr. B.R. Kayat (PW-2). Thus, it can not be said that conviction under

No error of jurisdiction has been pointed out warranting interference.

6. Learned counsel for the petitioners has placed strong reliance upon Section 210 Cr.P.C. and has contended that the trial Court acted contrary to the provisions of the said Section because it did not stay the proceedings of the complaint case to await filing of the challan by the police in the FIR No. 75 dated 24.5.2006. On the contrary, the trial Court did not take cognizance of the challan presented in the said FIR. The said argument can not be appreciated by me because sub Section 3 of Section 210 Cr.P.C. referred to herein before specifically provides that the Magistrate shall continue with the trial of the complaint case, if he does not take cognizance of any offence on the police report. The argument is, thus, liable to be rejected summarily.

7. Custody certificates have been placed on record by the learned State counsel. According to the same, petitioner No. 8 has undergone custody for a period of five months and twenty two days and petitioner No. 1 has undergone custody for a period of three months and twenty seven days. All the other petitioners have undergone custody for a period of three months and twenty one days each. None of the petitioners has any criminal antecedent except petitioner No. 5 Tarsem son of Baru, who has also been involved in an earlier case under the Excise Act, 1914 in which he was bailed out after two day of custody. It is also relevant to note that FIR in the said case is dated 29.11.2002 whereas Tarsem son of Baru was arrested only on 02.05.2007 and released on 03.05.2007. It, thus, appears that no serious offence was committed by him. Petitioner No. 8 - Sunder son of Chatru was earlier involved in an FIR under the NDPS Act, 1985, but was acquitted by this Court. He is also named in another FIR under Sections 323, 325 IPC, in which he is on bail. The present case is one of a petty quarrel, which took place between neighbours because of watching movie at high volume.

convicting petitioners No. 1 to 4, 6 and 7 and sentencing them to the period already undergone by them. The bail and surety bonds submitted by them shall stand discharged. However, they shall be released on probation of good conduct for a period of six months and this shall be subject to furnishing of fresh bonds with one surety to the satisfaction of Chief Judicial Magistrate, Jind.

9. Petitioner No. 5 - Tarsem son of Baru and petitioner No. 8 Sunder son of Chatru are also convicted but their sentence is reduced to six months. The bail bonds and sureties furnished by them shall stand discharged and they shall be taken into custody forthwith for completing the balance of their sentence.

10. The conviction of the petitioners is, thus, upheld and sentence is modified accordingly. A copy of this judgment shall be transmitted to the trial Court for compliance.

January 23, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No