

CRR-3960 of 2016(O&M)
CRR-4291 of 2016(O&M)

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

Date of Decision: 31.05.2018

CRR-3960 of 2016(O&M)

VISHAVJEET AND ORS

....Petitioners

Versus

STATE OF PUNJAB

....Respondent

CRR-4291 of 2016(O&M)

GOBIND

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sunil Kumar, Advocate
for the petitioner(s).

Mr. A.S. Dhaliwal, DAG, Punjab.

MAHABIR SINGH SINDHU, J.(Oral)

This order will dispose of the above said two revision petitions which are arising from the common judgement.

The present petitions have been filed against the impugned judgement dated 07.10.2016 passed by learned Additional Sessions Judge, SAS Nagar Mohali, upholding the conviction and

sentence in Special Home imposed by learned Principal Magistrate Juvenile Justice Board, SAS Nagar, Mohali, vide inquiry and order dated 02.09.2014, under Sections 394/34 IPC, for a period of three years.

Brief facts of the case are that an FIR No. 293 dated 09.12.2012 was registered against the petitioners on the complaint of -Manoj Kumar. He suffered a statement before the police to the effect that on that day at about 8:30 p.m. he had gone from village Mohali to Phase-6 for purchasing vegetables, then he was going through shortcut from Dussehra ground, then two bays aged about 16-17 years called him and asked for Biri, thereupon he told them that he does not smoke. Then from his back, two persons gave knife blows on his head and on the eyebrow of his right eye. They also gave knife blow on the right side of his lips. During that incident, Rs.7,000/- lying in the pocket of his pent and jacket and one mobile phone nokia, fell down at the spot then he raised alaram, whereupon they ran away. Thereafter, he was got admitted in the Government Hospital by the PCR Personnels. On the basis of the abovesaid statement of the complainant, the above FIR was registered and then the investigation was pressed into service. During investigation all the above said accused persons was found to be juvenile, and after the completion of necessary investigation separate report was presented before the Principal Magistrate Juvenile Justice Board against the juveniles in conflict of law. After that a case under Sections 392, 394, 341 and 34

of the IPC was found to be made out against the juveniles and they were charge sheeted accordingly. After taking into consideration the material available on record learned Principal Magistrate, Juvenile Justice Board, SAS Nagar Mohali convicted the petitioners under Section 394 read with Section 34 of the IPC and sentenced for three years in Special Home as per Section 15(1)(g) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'JJ Act') and fine of Rs.500/- was also imposed on each of the petitioners vide judgement and order of sentence dated 02.09.2014.

Aggrieved against the conviction and sentence, an appeal was preferred, but the same was dismissed by learned Additional Sessions Judge, SAS, Nagar, Mohali. Hence, the present revisions.

Learned State counsel has filed the custody certificates of the petitioners in the Court today. The same are taken on record.

At the very outset, learned counsel for the petitioners has stated that he does not want to challenge the conviction of the petitioners, but will confine his prayer only to the quantum of sentence which they have already undergone in the Safe Home.

It is contended that at the time of commission of the offence all the petitioners were juvenile and they have been suffering from the proceedings right from the date of registration of the FIR on 09.12.2012 till date. As such these are mitigating circumstances and even otherwise all of them have undergone more than one year and seven months of actual sentence in the Special Home and they be

given a chance to reform themselves.

Learned State counsel opposed the contention and prayed for dismissal of revisions.

Heard both sides and perused the paper-book.

Since, the petitioners have been facing the criminal proceedings since December, 2012 and all of them have already undergone the actual sentence of more than one year and seven months. There is no dispute that on the date of occurrence all the petitioners were juvenile and in view of the facts and circumstances discussed above, those are the mitigating circumstances that they be given a chance to reform themselves and come to the mainstream of the society. Consequently, the present petition is disposed off with the modification that the conviction of all the petitioners recorded by both the learned Courts below under Section 394 read with Section 34 of IPC is upheld; whereas sentence of imprisonment is modified and reduced to that of already undergone by them.

All the petitioners be set free, if not required in any other case.

[MAHABIR SINGH SINDHU]
JUDGE

May 31, 2018
rashmi

Whether speaking/reasoned
Whether reportable?

Yes/no
Yes/no