

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1466 of 2017

DATE OF DECISION: DECEMBER 18, 2018

SANJAY TYAGI AND ANOTHER ...PETITIONERS

VERSUS

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. BIKRAM CHAUDHARY, ADVOCATE
FOR THE PETITIONERS.

MR. NAVDEEP SINGH, AAG, HARYANA.

MANOJ BAJAJ, J.

The petitioners have preferred this revision petition challenging the judgement dated 10.4.2017 passed by the Addl. Sessions Judge, Faridabad in CrI.A. No.05 of 2016 whereby the judgement of conviction dated 16.12.2015 and order of sentence dated 21.12.2015, passed by the trial Court was maintained.

The petitioners were prosecuted in case FIR No.67 dated 23.2.2010 under Section 323, 452, 506 & 427 IPC registered at Police Station Saran, Faridabad.

The present FIR was recorded on the complaint filed by Neeraj Devi. It was stated that she had a dispute with her neighbour Sunil Kumar @ Lala Bania (petitioner No.2) over a plot. On 20.2.2010, the complainant went to her plot which infuriated Sunil Kumar @ Lala Bania and he alongwith Sanjay Tyagi (petitioner No.1) and another boy came to the plot

and gave beatings to the complainant with danda, bricks and stones. One Malti Devi came to the spot and tried to rescue the complainant, but she was also given beatings by the accused and on an uproar by the complainant, the accused fled away from the spot.

The complainant party was medico-legally examined and on the basis of the aforesaid statement, the present FIR was registered and investigation was carried out. Statements of witnesses were recorded, the accused were arrested and after completion of the investigation, a final report was submitted before the competent Court.

Statement of the accused were recorded under Section 313 Cr.P.C. wherein they denied the allegations and pleaded false implication. Two witnesses were also examined in their defence.

The learned trial Court after examining the evidence on record and relying on the testimony of witnesses held the accused guilty for the offence punishable under Section 323, 452 and 506 IPC and sentenced them to undergo imprisonment for 2 months and to pay a fine of ₹1000/- each under Section 323 IPC, to undergo imprisonment for 3 months and to pay a fine of ₹1500/- each under Section 452 IPC and to undergo imprisonment for 3 months and to pay a fine of ₹1000/- each under Section 506 IPC.

An appeal was filed against the aforesaid judgement of conviction and order of sentence, but the appellate Court declined to interfere in the judgement and order of sentence passed against the petitioners and upheld the judgement passed by the trial Court.

Learned counsel appearing on behalf of the petitioner has

contended that he does not press challenge to the conviction part in the impugned judgement and restricts his prayer only to the sentence part.

Learned counsel for the petitioner contended that as per the custody certificate, the petitioners have undergone 1 month and 24 days out of 3 months of imprisonment awarded. It was further contended that the occurrence in this case had taken place on 20.2.2010 and for the last more than 7 years the petitioners are facing the agony of trial and appeal and the offences committed were not life threatening. It was, therefore, requested that the petitioners may be sentenced to the period already undergone by them. It is also argued that petitioners have a right of speedy trial under Article 21 of the Constitution of India.

Learned State counsel, on the other hand, opposed the prayer made the learned counsel for the petitioner.

Considering the aforesaid contentions of the learned counsel for the petitioners, this Court is of the opinion that as the petitioners are not habitual offenders; have suffered the ordeal of protracted trial and appeal for the last 7 years; are not previous convicts and no other case is pending against them, therefore, no useful purpose would be served by sending the petitioners in custody for serving the remaining portion of their sentence and ends of justice would be met, if the sentence of the petitioners is modified to the one already undergone by them.

In view of the above, while upholding the conviction of the petitioners, the sentence awarded by the trial Court is reduced to the one already undergone by them.

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

December 18, 2018
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No