

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

CRR No.2555 of 2017.

Decided on:-August 23, 2018.

Gurmeet Singh and others

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ashok Kumar Khunger, Advocate
for the petitioners.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State.

HARI PAL VERMA, J.

Petitioners, namely, Gurmeet Singh, Malkiat Singh and Jinderpal Singh @ Chhinderpal Singh have filed the present revision petition against the judgment dated 06.07.2017 passed by learned Additional Sessions Judge, Fazilka whereby their appeal against the judgment of conviction and order of sentence dated 23.02.2015 passed by learned Judicial Magistrate 1st Class, Abohar, was dismissed.

Briefly stated, an FIR No.179 dated 30.11.2011 under Sections 323 and 324 read with Section 34 IPC was registered against the petitioners-accused and co-accused Inder Singh at Police Station City-I, Abohar on the allegations that on 19.11.2011 at about 07.30 P.M., they in furtherance of

their common intention caused injuries to injured-complainant Sandeep Singh with blunt as well as sharp edged weapons.

After completion of investigation, Challan was presented in the Court. The copies of Challan as envisaged under Section 207 Cr.PC were supplied to the accused free of costs. On finding a prima-facie case, the accused were charge sheeted for the commission of offence punishable under Sections 323 and 324 read with Section 34 IPC to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 23.02.2015 convicted the petitioners and co-accused Inder Singh and sentenced them as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 323 read with Section 34 IPC	Rigorous imprisonment for a period of six months each.
Under Section 324 read with Section 34 IPC	Rigorous imprisonment for a period of one year and to pay fine of Rs.1,000/- each and in default of payment of fine to further undergo rigorous imprisonment for ten days each.

It was further ordered that all the sentences shall run concurrently.

Feeling aggrieved, the petitioners and co-accused Inder Singh preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 06.07.2017 passed by learned Additional Sessions Judge, Fazilka, the said appeal was dismissed.

It is in the aforesaid circumstances, the petitioners have filed the present revision petition.

At the outset, learned counsel for the petitioners has not challenged the revision on merits, however, prayed that some lenient view may be taken qua quantum of sentence only. He has contended that as against the awarded sentence of one year, the petitioners have already undergone imprisonment for a period of 4 months and 11 days including remission.

He has further contended that the petitioners are poor persons, first time offenders and there is no other criminal case pending against them. The petitioners have been suffering the agony of criminal proceedings since 30.11.2011 i.e. the date when the FIR in question was registered against them. Thus, he has prayed that the sentence of the petitioners may be reduced to the period already undergone by them.

On the other hand, learned State counsel has not disputed the custody of the petitioners, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioners. However, he states that there is no other case against the petitioners. The custody certificates of the petitioners filed in the Court, are taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 323 and 324 read with Section 34 IPC. The appellate

Court has also dismissed their appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, admittedly, the petitioners have already undergone imprisonment for a period of 4 months and 11 days including remission and no other case is pending against them. They have been facing the agony of criminal proceedings since 30.11.2011 i.e. the date when the FIR in question was registered against them. They are first time offenders and no other case is pending against them.

Therefore, taking into account the protracted trial, antecedents of the petitioners, coupled with the fact that as against the awarded sentence of one year, they have already suffered incarceration for a period of 4 months and 11 days including remission, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of fine of Rs.5,000/- each under Section 324 read with Section 34 IPC instead of Rs.1,000/- each as imposed by learned trial Court and affirmed by learned appellate Court.

It is made clear that the petitioners shall deposit the increased amount of fine before the trial Court within a period of one month from today, failing which the present revision petition shall be deemed to have been dismissed in toto.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

August 23, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No