

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 01.02.2018
CRR-4021-2017

1.

Rupinder Singh @ Bhupender Singh

... Petitioner

Versus

State of Punjab

... Respondent

2.

CRR-4147-2017

Ajaib Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.S.S.Sahu, Advocate in CRR-4021-2017;
Mr. G.S. Sidhu, Advocate in CRR-4147-2017
for the petitioners.

Mr.Surender Singh, AAG, Haryana.

AMOL RATTAN SINGH, J.(ORAL)

The single petitioner in Criminal Revision no.4021 of 2017 and the two petitioners in Criminal Revision no.4147 of 2017, all challenge the same judgments of the learned Courts below, i.e. the learned appellate Court dated 28.09.2017 and the learned trial Court dated 11.09.2015, by which all three petitioners before this Court, have been convicted for the commission of offences and sentenced to terms of imprisonment, all of which are given hereinbelow:-

Section	Sentence
326	2 years rigorous imprisonment & to pay a fine of Rs.1000/- each.

324	1 year rigorous imprisonment & to pay a fine of Rs.500/- each.
452	6 months rigorous imprisonment & to pay a fine of Rs.200/- each.
323	3 months rigorous imprisonment.
506	1 months' rigorous imprisonment.

Another co-accused, Balwinder Singh @ Shintu, died during the pendency of the trial itself.

2. Mr. Sahu, learned counsel appearing for the petitioner in CRR no.4021 of 2017, and Mr. Sidhu, learned counsel appearing for the petitioners in CRR no.4147 of 2017, submit that the petitioners not having inflicted very serious injuries on the victims, and already having undergone about 6 months of actual imprisonment out of the 2 year sentence imposed upon them, they will not argue the petitions on merits but confine their arguments to the quantum of sentence.

As per the custody certificates filed in Court today, the petitioners are all shown to have undergone about 5½ months of actual imprisonment, with no other criminal cases ever registered against Ajaib Singh and Paramjeet Singh @ Sonu (petitioners in CRR-4147-2017), but with Rupinder Singh @ Bhupender Singh petitioner in CRR-4021-2017 having also been convicted in another case, for the commission of offences punishable under Sections 323 and 325 IPC, with the sentence in that case being one years' rigorous imprisonment, along with a fine of Rs.1000/- to be paid by him.

3. Learned State counsel submits that even if this Court is inclined to reduce the sentence imposed upon the petitioners, it should only be upon payment of compensation to the victims, though otherwise he opposes any

such reduction in sentence, on the ground that the petitioners armed with sharp edged weapons had attacked Kishan Singh and his father, Karamjit Singh.

4. Though details of the occurrence leading to the conviction of the petitioners are not necessary now to be gone into, with the challenge to the conviction of the petitioners not being pressed by the learned counsel, with only the quantum of sentence sought to be reduced; however, a brief summary of the occurrence needs to be referred to, even for the purpose of consideration of the case for any reduction of the sentence imposed.

5. Briefly, criminal proceedings came to be initiated upon the statement of one Kishan Singh on 25.08.2010, before HC Punam Chand and two other police officials, after Kishan Singh was admitted to the Government hospital, Sirsa.

The same Head Constable had received a communication (*ruqqa*) regarding the admission of Kishan Singh in the hospital on 24.08.2010, but on that date the doctor had declared the patient unfit to make a statement. Thereafter, on 25.08.2010, Kishan Singh had stated that he was a Mechanic by profession and that on 23.08.2010 he was present at his house at about 10:45 pm, when all the four accused (the three petitioners and their deceased co-accused) came to his house alongwith one Ninder. The deceased Balwinder Singh @ Shintu was stated to have been armed with a sword and the present 3 petitioners were stated to have been armed with *kapas*.

As per the complainant, (the late) Shintu attacked him with his sword on his forehead, Ajaib Singh and Ninder each attacked him with one blow each with their *kapas*, on each of his feet, and Bhupender @ Pinda hit

him on his left arm with the *kapa*, after which Paramjeet @ Sonu hit him on his right arm with the *kapa*, and Bhupender @ Pinda hit him again on his head, and Shintu hit him on his left ear.

Upon his family members coming to rescue him, the accused are stated to have attacked Kishan Singhs' father and sister also, after which they all ran away alongwith their weapons.

He was thereafter taken to the hospital by his father, Karamjeet Singh.

6. Upon the aforesaid statement, FIR no.252 was registered at Police Station Rania, District Sirsa, on 25.08.2010, alleging therein the commission of offences punishable under Sections 323/324/452/506/326/34 IPC.

The prosecution examined 12 witnesses including 5 doctors, the complainant himself, as also his father, and the investigating officer, Punam Chand (later ASI).

7. As per the medical reports, Kishan Singh was found to have sustained the following injuries on his person:-

1. Incised wound left frontal aspect 3 x 0.5 cm, bone deep, fresh bleeding-advised xray and surgeon's opinion.
2. Lacerated wound mid frontal aspect 2 x 0.5 cm, bone deep, fresh.
3. Bruise left arm, laterally 3x 3 cm, advised xray.
4. Incised left tibia 3 x1 cm, bone deep, fresh bleedings, horizontally placed-advised xray.
5. Incised wound right mid thigh, laterally, 5 x 3 cm, muscle deep, fresh bleeding, advised xray.
6. Abraided bruise right arm 4 x 2 cm, advised xray.
7. Bluish bruise right ear pinnae-advised ENT opinion.

The injury on the tibia was found to have led to a fracture and was consequently declared to be grievous.

Three injuries were also found on the person of Karamjeet Singh, father of Kishan Singh, i.e. two bruises 7 cm x 1 cm on the thoracic region on his back, with a diffused swelling present beneath, as also a bruise of 6 cm x 0.5 cm, also on the thoracic region, above the former injury.

8. On the basis of evidence led on both sides, the learned trial Court eventually found the petitioners guilty of committing the offences as already described herein, and sentencing them to two years rigorous imprisonment for the offence punishable under Section 326 IPC and for lesser terms in respect of the other offences.

That judgment was upheld by the appellate court.

9. Having considered the above, and the contentions of learned counsel for the parties, keeping in view the injuries shown to have been inflicted upon the complainant and his father, but also on the other hand, seeing that there is no other criminal case seen to have been registered against either of the petitioners in CRR no.4147 of 2017, i.e. Ajaib Singh and Paramjeet Singh @ Sonu, it is considered appropriate that upon the petitioners paying compensation to the victims of their attack, their sentences be reduced. Consequently, the sentence imposed on them by the Courts below in respect of the offences punishable under Sections 326 and 324 IPC are reduced to 8 months rigorous imprisonment for each of those two offences, with the remaining sentences imposed (for the offences punishable under Sections 452, 323 and 506 IPC) left to be as was imposed by the learned Courts below, i.e. of 6 months, 3 months and 1 months' rigorous imprisonment for each of the aforesaid offences, respectively.

All the sentences would run concurrently with each other.

The fines imposed by the learned Courts below, in respect of each of the offences that those fines were imposed for, are also left undisturbed.

10. As regards Rupinder Singh @ Bhupender Singh, the petitioner in CRR no.4021 of 2017, he already earlier having been sentenced to one years' rigorous imprisonment in another case, for the commission of offences punishable under Sections 325 and 323 IPC, subject to payment of compensation to the victims, the sentences imposed upon him for the commission of the offences punishable under Sections 326 and 324 IPC, are reduced to 11 months rigorous imprisonment for each offence, with the sentences imposed for the commission of offences punishable under Sections 452, 323 and 506 IPC left undisturbed, as were imposed by the learned Courts below.

All sentences would run concurrently with each other.

In his case too, the fines imposed by those Courts in respect of the aforesaid offences, would remain undisturbed.

11. The reduction of sentence of all the petitioners in these two petitions, would be subject to them collectively paying Rs.50,000/- as compensation to the complainant-injured Kishan Singh and Rs.20,000/- to his father, Karamjeet Singh, also proved to have been injured in the occurrence.

Thus, upon a total amount of Rs.70,000/- being paid by the three petitioners collectively to the aforesaid two victims in the occurrence, the sentences of imprisonment imposed upon the petitioners would be reduced as aforesaid.

12. As already stated hereinabove, the fines imposed upon the petitioners by the learned Courts below shall also be paid by them, in default of which the sentences imposed by those Courts would also remain the same.
13. The petitioners are allowed to the aforesaid extent.

(AMOL RATTAN SINGH)
JUDGE

February 01, 2018.
Davinder Kumar/dinesh

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No