

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

CRR No.4494 of 2017 (O&M)
Decided on:-July 06, 2018.

Satwinder Singh and others

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Vivek Goel, Advocate
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

Mr. Harkaran Singh, Advocate for
Mr. B.S. Bhalla, Advocate
for the complainant.

HARI PAL VERMA, J.

Petitioners, namely, Satwinder Singh, Mohinder Singh, Gurpreet Singh and Manpreet Singh have filed the present revision petition against the judgment dated 10.11.2017 passed by learned Additional Sessions Judge, Moga whereby their appeal against the judgment of conviction and order of sentence dated 19.03.2016 passed by learned Judicial Magistrate 1st Class, Moga, was dismissed with modification in the order of sentence.

Briefly stated, an FIR No.123 dated 25.09.2009 under Sections 324, 323, 148 and 149 IPC (Section 326 IPC added later on) was registered against the petitioners-accused at Police Station Mehna on the allegations that

on 25.09.2009 at about 7.15 P.M., when complainant Angrej Singh was standing in front of his house, the petitioners-accused in furtherance of their common intention caused simple as well as grievous injuries to him with sharp edged weapons.

The statement of injured-complainant was recorded by the investigating officer and the FIR in question was registered against the accused. 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, 324 and 326 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 19.03.2016 convicted the petitioners and sentenced them as under:

<u>Offence</u>	<u>Sentence</u>
326 IPC	Rigorous imprisonment for three years and to pay fine of Rs.1000/- each and in default of payment of fine to further undergo rigorous imprisonment for one month each.
324 IPC	Rigorous imprisonment for one year and to pay fine of Rs.500/- each and in default of payment of fine to further undergo rigorous imprisonment for fifteen days each.
323 IPC	Rigorous imprisonment for six months and to pay fine of Rs.500/- each and in default of payment of fine to further undergo rigorous imprisonment for fifteen days each.

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

Feeling aggrieved, the petitioners preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 10.11.2017 passed by learned Additional Sessions Judge, Moga, the appeal filed by the petitioners was dismissed, however, with modification in the order of sentence to the effect that the sentence imposed upon them under Section 326 IPC was reduced from RI 3 years to a period of RI 2 years.

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

On December 05, 2017, when the present revision petition came up for hearing before this Court, learned counsel for the petitioners did not challenge the revision on merits, however, prayed that some lenient view may be taken qua quantum of sentence only. Therefore, notice of motion qua quantum of sentence only was issued.

Learned counsel for the petitioners has contended that as against the awarded sentence of two years, the petitioners are in custody since 10.11.2017 i.e. the date when the impugned judgment was passed by learned appellate Court. As such, they have already undergone actual imprisonment for a period of more than 7 months and 25 days.

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

25.09.2009 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.

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 326, 324 and 323 IPC. The appellate Court has also rightly 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 petitioners, namely, Satwinder Singh, Mohinder Singh, Gurpreet Singh and Manpreet Singh is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, admittedly, the petitioners have already undergone actual imprisonment for more than seven months and 25 days and no other case is pending against them. They have been facing the agony of criminal proceedings since 25.09.2009 i.e. the date when the FIR in question was registered against them.

Therefore, taking into account the protracted trial, antecedents of the petitioners, coupled with the fact that they have already suffered incarceration for a period of more than 7 months and 25 days, 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.10,000/- each under Section 326 IPC instead of Rs.1,000/- each as imposed by learned trial Court and affirmed by learned appellate Court. On deposit of increased amount of fine, the petitioners be released forthwith, if not required in any other case.

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

July 06, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No