

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 1510 of 2018
Date of Decision: 05.10.2018

Desa Singh and others ...Petitioners

VERSUS

State of Punjab ...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.S. Jaswal, Advocate
for Mr. Rishu Mahajan, Advocate
for the petitioners.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

SURINDER GUPTA, J.

Petitioners were convicted and sentenced by learned Judicial
Magistrate, Ist Class, Amritsar, as follows:-

<i>Offence under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>Sentence in default of fine</i>
148 IPC	Rigorous imprisonment for one year	₹500/-	RI three months each
324 read with Section 149 IPC	Rigorous imprisonment for one year	₹500/-	RI three months each
326 read with Section 149 IPC	Rigorous imprisonment for three years	₹1000/-	RI six months each
452 read with Section 149 IPC	Rigorous imprisonment for three years	₹1000/-	RI six months each

2. In appeal, petitioners were acquitted of the charge for offence punishable under Section 326 read with section 149 IPC. However, their remaining sentences as awarded by the trial Court were maintained.

3. As per case of prosecution, the occurrence took place on 27.03.2010 at about 05.00 p.m., when petitioners trespassed the house of complainant-Dalip Singh and on *lalkara* petitioner no. 1-Desa Singh caused injuries on the person of Nirmal Singh and complainant. The complainant

and his brother, Nirmal Singh, raised *raula* at which all the assailants ran away from the spot.

4. Learned counsel for petitioners has not challenged the conviction of petitioners as recorded by Courts below and has argued that learned trial Court awarded the sentence of three years rigorous imprisonment for offence punishable under Sections 452 read with Section 149 IPC, which is on higher side. Learned Appellate Court found that offence punishable under Section 326 IPC is not made out and has acquitted petitioners for this offence, as such, sentence awarded to petitioners for offence punishable under Section 452 read with Section 149 IPC may be reduced to sentence of imprisonment already undergone by them.

5. Custody certificates produced on file by learned State counsel show that petitioners have already undergone sentence of 10/11 months. They are not previous convicts. The occurrence has taken place over the dispute of fare of Tempo.

6. Keeping in view above facts, I am of the opinion that sentence of three years rigorous imprisonment awarded to petitioners for offence punishable under Section 452 read with Section 149 IPC is on higher side. In view of antecedents of petitioners and nature of offence committed by them, I am of the opinion that awarding them sentence of 01 year and 03 months for offence punishable under Section 452 IPC will serve the ends of justice.

7. Consequently, the instant revision is partly accepted. Conviction of petitioners for offence punishable under Sections 148, 324 read with Section 149 and 452 read with Section 149 IPC as recorded by Courts below is upheld.

However, the sentence awarded to them for offence punishable under Section

imprisonment to rigorous imprisonment for 01 year and 03 months, but the sentence of fine is maintained.

8. Intimation regarding reduction of sentence of petitioners be sent to Superintendent, Central Jail, Amritsar.

October 05, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No