

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

233

CRR-1699-2018 (O&M)

Date of Decision:03.12.2018

Narinder Singh @ Nindi and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

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

**Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioners.**

Mr. Jagmohan Ghumman, D.A.G., Punjab.

**Mr. Harbhajan Singh, Advocate,
for respondent No.2-complainant in person.**

HARI PAL VERMA, J.(Oral)

Petitioners have filed the present revision petition against the judgment dated 13.03.2018 passed by learned Additional Sessions Judge, Sangrur, whereby their appeal against judgment of conviction and order of sentence dated 04.08.2014 passed by Judicial Magistrate 1st Class, Sangrur, was dismissed.

Briefly stated on 30.05.2013, a telephonic message was received by the police from the Civil Hospital, Sangrur, regarding injured Jagsir Singh s/o Bant Singh and Bant Singh s/o Sher Singh. ASI Surjan Singh reached the hospital and received MLR No.BS/48/13 of Jagsir Singh shownig one injury and MLR No.BS/49/13 of Bant Singh showing injury No.1 sharp and injury Nos.2 and 3 as blunt, which were kept for x-ray

observations.

Accordingly, FIR No.75 dated 31.05.2013 under Sections 452, 324, 323, 34 IPC, Police Station Longowal, was registered against the petitioners at the behest of Jagsir Singh-respondent No.2/complainant, in which complainant-Jagsir Singh and Bant Singh were injured.

The matter was investigated and challan was presented in Court. Copies of the challan were supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a *prima facie* case, charge under Sections 452, 324, 323, 34 IPC was framed against the petitioners, to which they pleaded not guilty and claimed trial.

Learned Magistrate after hearing the parties and appreciating the evidence on record, vide judgment dated 04.08.2014, held the petitioners guilty for committing offence under Sections 452, 324, 323, 34 IPC and accordingly, convicted and sentenced them, as indicated above.

Learned Judicial Magistrate 1st Class, Sangrur, vide judgement dated 04.08.2014 convicted petitioner No.1-Narinder Singh alias Nindi under Sections 452, 324, 323 IPC, whereas had convicted petitioner No.2-Malkiat Singh under Section 452, 324/34, 323 IPC and vide separate order of even date, sentenced them as under:-

Accused Narinder Singh alias Nindi

Under Section 452 IPC	To undergo RI for three years and to pay fine of Rs.500/- and in default of payment of fine, he shall further undergo RI for one month.
Under Section 324 IPC	To undergo RI for three years.
Under Section 323 IPC	To undergo RI for one year.

Accused Malkiat Singh

Under Section 452 IPC	To undergo RI for three years and to pay fine of Rs.500/- and in default of payment of fine, he shall further undergo RI for one month.
Under Section 324/34 IPC	To undergo RI for three years.
Under Section 323 IPC	To undergo RI for one year.

All the abovesaid sentences were ordered to run concurrently.

Aggrieved from the aforesaid judgment and order of sentence of learned Magistrate, the petitioners preferred an appeal before learned Additoinal Sessions Judge, Sangrur, which was dismissed, maintaining the conviction and the sentence awarded by the Judicial Magistrate 1st Class, Sangrur.

It is in these circumstances, the petitioners have preferred the present revision petition against the judgment dated 13.03.2018 passed by learned Additional Sessions Judge, Sangrur.

On August 16, 2018, petitioners had sought time to implead the complainant in the case and accordingly, complainant-Jagsir Singh was impleaded as respondent No.2. Vide order dated 18.09.2018, on the joint request made by learned counsel for the parties and considering the nature of dispute, the case was referred to Mediation & Conciliation Centre of this Court, wherein the matter has been compromised and this fact has not been disputed by learned counsel for respondent No.2-complainant.

Learned counsel for the petitioners states that in terms of the compromise/settlement so arrived at between the parties on 11.10.2018, it has been agreed between the parties that a sum of ₹2 lacs shall be paid by the petitioners-accused to the injured complainant as one time final

settlement. He further states that in terms of the settlement, ₹1 lac though

was required to be paid by 30.11.2018, whereas the remaining amount was to be paid on or before 30.04.2019. However, the petitioners are paying the agreed whole amount of ₹2 lacs to respondent No.2-complainant today in the Court itself.

The said amount has been handed over to the counsel for respondent No.2, in the presence of complainant, who is present in Court for onward payment to the complainant.

Learned State Counsel has produced on record the custody certificates of the petitioners, which are taken on record.

I have heard learned counsel for the parties.

The terms of agreement so entered between the parties are as under:-

a) It is agreed/settled between the parties that a sum of ₹2,00,000/- (Rupees two lacs only) will be payable by the first party/petitioners to the second party/respondent No.2 as one time full and final settlement of the present dispute. The dispute has been finally resolved between the parties for all times to come. The amount of ₹2,00,000/- (Rupees two lacs only) shall be paid by the first party/petitioners to the second party/respondent No.2 in the following manner:-

(i) The first instalment of ₹1,00,000/- (Rupees one lac only) shall be paid by the first party/petitioners to the second party/respondent No.2 on or before 30.11.2018.

(ii) The second and final instalment of ₹1,00,000/- (Rupees one lac only) shall be paid by the first party/petitioners to the second party/respondent No.2 on or before 30.04.2019.

(b) That it is further agreed between the parties that after receipt of ₹2,00,000/- (Rupees two lacs only) from the first party/petitioners, the present dispute between the parties stands settled and the second party/respondent No.2 hereby withdraws from the prosecution and has no objection if the present Revision i.e. CRR No.1699 of 2018 is allowed by the Hon'ble High Court by compounding the offence and

the first party is acquitted in terms of the present settlement/compromise. The second party has also agreed to make a statement before the Hon'ble High Court in this regard. The second party/respondent No.2 shall have no objection, if the sentence of the petitioners is suspended by this Hon'ble High Court during the pendency of the present Revision Petition.

(c) That as per the parties, except the present CRR, no other Civil or Criminal litigation is pending between the parties. Both the parties further undertake that they will not file any Civil or Criminal litigation against each other in future with regard to the present dispute and shall also withdraw all the cases, if any, pending before any Court/Authority regarding the above-mentioned dispute.”

An amount of ₹2 lacs as agreed between the parties has been paid in the Court itself to the learned counsel for respondent No.2, who has handed over the same to the complainant-injured present in Court. Moreover, as against the awarded sentence of three years, the petitioners have remained in custody for about 06 months and 10 days. As per the custody certificates, the petitioners are not involved in any other case.

This Court feels that the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from a judgment of Hon'ble the Apex Court in the case of ***Karamjit Singh v . State (Delhi Admn.), 2001(9) SCC 161***, wherein the observations made are as under:-

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a

criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Keeping in view the ratio of law laid down in the abovementioned judgment and the fact that the petitioners have not crossed the age whereby they cannot be reformed, particularly when they are first time offenders and no such previous conviction has been pointed out in the custody certificates and the fact that the matter has been resolved between the parties before the Mediation & Conciliation Centre of this Court, this Court finds that the ends of justice would be met if the present petition is disposed of, with modification in sentence. Accordingly, the petitioners be released on probation under Section 4(1) of the Probation of Offenders Act, 1958, for a period of one year on furnishing personal bond in the sum of ₹10,000/- with one surety of the like amount before the Chief Judicial

Magistrate, Sangrur. The petitioners shall file an undertaking before the trial court that they shall not indulge in any illegal activities during the period of one year and would lead a life of disciplined citizens. The probation shall have no bearing and would not be a disqualification for their service/employment etc.

December 03, 2018

seema

(HARI PAL VERMA)**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No