

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

Date of Decision: 09.08.2018
CRR-4797-2017

Azad Singh

...Petitioner

vs.

State of Haryana and another

..Respondents

CRR-4798-2017

Rajesh Kumar

...Petitioner

vs.

State of Haryana and another

..Respondents

CRR-4799-2017

Sushil Kumar and others

...Petitioners

vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhilaksh Grover, Advocate and
Mr. Kirpal Singh, Advocate
for the petitioners.

Mr. Himmat Singh, DAG, Haryana.

Mr. Mayur Karkra, Advocate for
Ms. Aashna Gill, Advocate
for respondent No.2/complainant.

ARVIND SINGH SANGWAN,J

Challenge in these revision petitions is to the judgment of conviction dated 13.06.2014, vide which petitioners-Azad Singh, Sushil Kumar, Ved Parkash, Sandeep Kumar and Rajesh Kumar were convicted for commission of offence punishable under Sections 323/325/452/506 IPC read with Section 34 IPC and were sentenced to undergo as under:-

“a. Simple imprisonment for a period of one year

for the commission of offence punishable under Section 323 of IPC read with Section 34 IPC.

b. Simple imprisonment for three years for the commission of offence punishable under Section 325 of IPC read with Section 34 IPC and are also sentenced to pay a fine of Rs.1,000/- each. In default of payment of fine, convicts shall undergo simple imprisonment for a period of 15 days. Fine paid.

c. Simple imprisonment for three years for the commission of offence punishable under Section 452 of IPC read with Section 34 IPC and are also sentenced to pay a fine of Rs.1,000/- each. In default of payment of fine, convicts shall undergo simple imprisonment for a period of 15 days. Fine paid.

d. Simple Imprisonment for one year for the commission of offence punishable under Section 506 of IPC read with Section 34 IPC.

Fine should be released to the complainant as compensation for the injuries suffered by him at the hands of the Convicts.

The period already undergone by the convicts in custody during this trial and investigation shall be set-off from the sentence awarded to the convicts. All the sentences awarded shall run concurrently.”

Challenge has also been made to the judgment dated 08.12.2017 passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhri, while upholding the conviction of the petitioners, the sentence was modified as under:-

<i>“Offence</i>	<i>Sentence</i>
<i>U/S 323 r/w 34 IPC</i>	<i>to undergo simple imprisonment for a period of six months, each.</i>

<i>“Offence</i>	<i>Sentence</i>
<i>U/S 325 r/w 34 IPC</i>	<i>to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,000/-each. In default, to further undergo simple imprisonment for a period of 15 days, each.</i>
<i>U/S 452 r/w 34 IPC</i>	<i>to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,000/- each. In default, to further undergo simple imprisonment for a period of 15 days, each.</i>
<i>U/S 506 r/w 34 IPC</i>	<i>to undergo simple imprisonment for a period of one year, each.</i>

Brief facts of the case are that respondent No.2-Gurminder Singh had filed a criminal complaint No.144-1 dated 03.09.2008 with the allegation that all the five petitioners/accused persons, on 17.06.2008, in a pre-planned manner gathered in front of his house and started abusing him in a filthy language. The accused persons entered into his house and they were armed with *gandasi*, sword and sticks, upon which, Mohakam Singh (nephew of the complainant) requested them to leave the place. Upon this, accused Ved Parkash hurled a *lalkara* to catch them and, thereafter, Rajesh Kumar armed with a *gandasi*, caused injuries to Mohakam Singh on his right hand. Other accused started beating Mohakam Singh with *lathis*, *fists* and slap blows. The incident was reported to the Police Station Jagadhri and Mohakam Singh was medico legally examined at PHC Chhachhrauli and was advised X-ray, which was conducted wherein a fracture in the right hand's finger of Mohakam Singh was reported. Since, the police did not take any action on the complaint, the complainant filed a complaint. Thereafter he led his preliminary evidence and produced documents, the trial Court summoned the petitioners. Thereafter, after recording the post-charge evidence, the petitioners were charge-sheeted under Sections 323/452/504

and 506 IPC read with Section 34 IPC. The statements of the petitioners/accused persons under Section 313 Cr.P.C. were recorded. Thereafter, the petitioners/accused persons led their defence evidence.

The trial Court, thereafter, holding the petitioners/accused persons guilty and convicted/sentence them as mentioned in the earlier part of this judgment.

The present petitions are filed challenging the aforesaid judgment of conviction and order of sentence passed by the Courts below.

Vide order dated 11.01.2018, noticing the fact that the matter has been compromised between the parties, as even from the petitioners' side a cross FIR was registered against complainants' side, the sentence of the petitioners was suspended. Thereafter, the matter was referred to the Mediation and Conciliation Centre of this Court where all the parties from the petitioners' side as well as from the complainants' side appeared and recorded their statements on 17.07.2018. From the complainant's side, complainant-Gurminder Singh and injured/witnesses-Gurdeep Singh, Mohakam Singh and Sarvjit Singh alongwith their counsel were appeared. Similarly, the petitioners alongwith with their counsel were appeared before the Mediator and got their statements recorded. Both the parties, in a clear and unequivocal terms, deposed that they have compromised the matter and have undertaken to withdraw all the cases arising out of the dispute between them. It was also stated that even a civil dispute, regarding appointment of lambardar, between the parties qua which CWP-23831-2013 is pending in this Court is also resolved and the petitioners have no objection if the present petition is decided in terms of the compromise which has been arrived at between the parties of their own free will, consent and is in their

larger interest as they are in brotherhood and belong to the same village.

In view of the same, since the matter has been amicably settled between the parties and it has been decided by them that in order to maintain peace and harmony between the families of the petitioners and the complainant which is in larger interest to maintain peace in the village and also in view of the fact that the parties have settled their dispute with regard to the criminal litigation as well as civil litigation, this Court is satisfied that the compromise arrived at between the parties is genuine.

Learned State counsel has filed custody certificates and as the same, the petitioners are not involved in any other case and even after registration of the FIR, they have not repeated any such offence and have shown substantive improvement in their character.

After hearing learned counsel for the petitioners, I find merit in the present petitions considering the fact that the incident pertains to the year 2008 and prior to this incident none of the petitioners was involved in any criminal case and even subsequent thereto, they are not involved in any other case nor have shown any aggression against the complainant's party and never misused the concession of bail granted during pendency of the trial as well as the conditions of suspension of sentence during pendency of the present petitions.

It has been held by this Court in *Uday Singh and another vs. State of Haryana, 2015 (8) R.C.R.(Criminal), 488*, that where the State has not brought anything on record to show that the petitioners are either previous convicts or habitual offenders, being agriculturists having their own land and family to look after, considering the age of the

petitioners/offenders, also considering the period which they have undergone the sentence and have faced the long period of litigation and especially in view of the fact that the matter has been compromised, the petitioners can be granted benefit of probation.

In view of the same, I deem it appropriate to release the petitioners on probation of good conduct. Accordingly, the sentence awarded to the petitioners is reduced to probation of good conduct under Sections 4 of the Probation of Offenders Act. They shall execute the bonds and sureties for one year for good behaviour with one surety for a sum of Rs.25, 000/- before the trial Court/Successor Court within a period of two month from today and this bonds shall remain inforce for a period of one year. The conviction of the petitioners-Rajesh Kumar and Azad Singh was stayed vide order dated 28.05.2018 considering the fact that they are government servant. Since they have amicably settled the dispute and are facing the trial since 2008 and are having long service career ahead, where no other departmental proceedings are pending against them, the probation granted to the petitioners may not have any affect on their service career in view of Section 12 of the Probation of Offenders Act.

In view of the above, the petitions stand partly allowed.

09.08.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No.

Whether Reportable : Yes/No