

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

HEMLATA
2018.08.30 17:36
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CRR-4801-2017 (O&M)

Date of decision:28.08.2018

Satnam Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Bikramjit Singh Baath, Advocate, for the petitioners.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

RAJBIR SEHRAWAT, J. (ORAL)

The present petition has been filed challenging the order dated 01.11.2017 passed by Additional Sessions Judge, Gurdaspur, whereby, the appeal filed by the present petitioner-Gurwinder Singh against his conviction and sentence, recorded by the Judicial Magistrate 1st Class, Batala under Sections 326, 324 read with Section 34 IPC and Section 323 IPC was dismissed, and the conviction recorded by the trial Court was upheld. The trial Court has sentenced the petitioner to undergo rigorous imprisonment for a period of 02 years with fine of Rs.500/-, under Section 326 IPC and rigorous imprisonment for 01 year with fine of Rs.500/-, under Sections 324 read with Section 34 IPC and rigorous imprisonment for 01 year with fine of Rs.500/- under Section 323 IPC.

The brief facts of this case are that on the statement of the complainant-Gurdip Singh, the FIR was registered against petitioner-Gurwinder Singh along with one Satnam Singh. It was alleged in the FIR that 10 marla of the land of the complainant was in possession of Satnam Singh and his father. This possession was taken about five years back. The allegation is that the land of the complainant is adjoining to the land of Satnam Singh. Later on, Satnam Singh again damaged the boundary and amalgamate the above said 10 marla

land in his land. On the date of occurrence, the complainant had gone to field for cutting fodder, he was given injuries by the petitioners, namely, Satnam Singh, petitioner No.1 and Gurwinder Singh, petitioner No.2. Satnam Singh caused injuries to the complainant with the *datar* blow on his right arm. Satnam Singh also caused injuries to Chuhar Singh (father of the complainant) and Gurdip Singh (complainant), whereas, petitioner No.2-Gurwinder Singh caused injuries to complainant-Gurdip Singh only. Resultantly, the present case was initiated against the present petitioner.

After presentation of the challan, petitioner was charge-sheeted. Thereafter, the prosecution led its evidence. On the basis of which, the trial Court convicted and sentenced the petitioners, namely, Satnam Singh and Gurwinder Singh, under Sections 326, 324 of IPC read with Section 34 IPC and Section 323 of IPC, as mentioned above.

Challenging that conviction and sentence, the present petitioners had filed appeal before the Additional Sessions Judge, Gurdaspur. However, that appeal was also declined by the Lower Appellate Court. Hence, the present petition has been filed by the petitioners, challenging, both the judgments and the orders, passed by the Courts below.

Vide order dated 23.04.2018, the revision was partly allowed qua Satnam Singh, petitioner No.1 whose sentence was reduced to the sentence already undergone by him. However, qua the present petitioner- Gurwinder Singh, notice was issued only qua sentence. Therefore, the conviction of the present petitioner-Gurwinder Singh; is no more disputed in the case.

While making prayer for reduction of sentence, learned counsel for the petitioner-Gurwinder Singh has contended that the petitioner No.2 is the first offender and he is the only bread earner of his family. It is further contended by the counsel that the sentence of the co-accused of the petitioner, namely, Satnam Singh, has already been reduced to the sentence already undergone by him,

which was 06 months and 16 days only. The present petitioner-Gurwinder Singh has undergone more than 09 months of sentence, out of total 02 years.

Learned State counsel has produced the custody certificate of the petitioner-Gurwinder Singh, which shows that the petitioner has undergone 09 months and 16 days of total sentence, out of 02 years. The custody certificate also does not point out any other involvement of the petitioner in any other case.

Since, the sentence of the co-accused of the petitioner has already been reduced, therefore, the submission of counsel for the petitioner No.2 that he may also be considered for reduction of sentence, cannot be brushed aside. Although there is some distinction with regard to the allegations against the petitioner No.2 as compared to petitioner No.1, who is co-accused, however, the present petitioner-Gurwinder Singh has undergone custody more than the co-accused Satnam Singh.

Keeping in view the facts and circumstances pointed out by the counsel for the petitioner No.2, including the circumstance that the petitioner No.2 is the first offender, this Court finds the submission made by the counsel for the petitioner to be justified.

In view of the above, the present petition is partly allowed. The conviction of petitioner No.2 is upheld. However, the sentence awarded to petitioner No.2 is reduced to the sentence already undergone by him. Petitioner-Gurwinder Singh be released from jail, if not required in any other case.

Disposed of.

(RAJBIR SEHRAWAT)
JUDGE

28.08.2018
Hemlata

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