

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

CRR No. 4889 of 2017 (O&M)

Date of decision: 01.03.2018

Amarjit Singh @ Billu and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Malkeet Singh, Advocate
for the petitioners.

Ms. Simranjeet Kaur, AAG, Punjab

Mr. Yogesh Goel, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

In pursuance to the order dated 16.02.2018, a direction was issued to the Superintendent, Central Jail, Ludhiana to produce the petitioners before the Judicial Magistrate 1st Class/Illaq Magistrate/ Successor Court, Jagraon, for recording the statements of the parties in terms of compromise arrived at between them. However, on 28.02.2018, it was informed that the petitioners were not produced before the trial Court and the Superintendent, Central Jail, Ludhiana was directed to remain present in the Court to give his explanation.

An affidavit of Superintendent, Central Jail, Ludhiana has been filed by giving explanation on account of administrative reasons, he could not produce the petitioners before the trial Court, presence of the Superintendent, Central Jail, Ludhiana is exempted.

Custody certificates of petitioner No.1-Amarjit Singh @ Billu and petitioner No.2-Gurpreet Singh have also been filed along with an

affidavit of the Superintendent, Central Jail, Ludhiana and as per custody certificates, petitioner No.1-Amarjit Singh @ Billu has undergone 06 months and 07 days of total sentence including remission and petitioner No.2-Gurpreet Singh has undergone 05 months and 02 days of total sentence, out of two years rigorous imprisonment awarded by the trial Court.

Respondent No.2-Jagtar Singh (injured-witness), has appeared before the Mediation and Conciliation Centre of this Court, today itself, for recording his statement, in pursuance to the compromise. As per report of the Mediator, one of injured witness, namely, Baljit Kaur, who appeared as PW-3 before the trial Court, has died in a road accident. Baljit Kaur is wife of respondent No.2-Jagtar Singh and out of this wedlock, no issue has been born. It is also stated in the report that the other co-accused, namely, Karamjit Kaur w/o Amarjit Singh was acquitted by the Additional Sessions Judge, Ludhiana, vide order dated 27.10.2017. It is further stated in the report that Jagtar Singh-injured witness has entered into a valid and legal compromise dated 19.12.2017 with the petitioners, in the presence of Panchayat Members and he has deposed that he has no grievance against the petitioners. Since the parties are residing in the same village, considering that they have entered into a compromise with each other to live peacefully and maintain the cordial relations in future.

Counsel for the petitioners has not challenged the conviction of the petitioners. As per the judgment of conviction dated 17.11.2015 passed by the trial Court and the order dated 27.10.2017 passed by the Lower Appellate Court submitted that in view of the compromise between the parties that the petitioners were sentenced as under:-

Name of the convict	RI for the period	Fine	In default of payment of fine
Amarjit Singh @ Billu			
U/s 326 IPC	2 years	2000/-	20 days
U/s 325/34 IPC	1 -1/2 years	1500/-	15 days
U/s 323 IPC	6 months	500/-	7 days
U/s 452 IPC	1 Year	500/-	7 days
Gurpreet Singh			
U/s 326	2 years	2000/-	20 days
U/s 325/34 IPC	1 -1/2 years	1500/-	15 days
U/s 323 IPC	6 months	500/-	7 days
U/s 452 IPC	1 Year	500/-	7 days

Counsel for the petitioners has relied upon the Division Bench Judgment of this Hon’ble Court in *Sube Singh and another Vs. State of Haryana and another, 2013(4) R.C.R. (Criminal) 102*, wherein, it has been held that even in case of conviction by the trial Court, the High Court in exercise of its power under Section 482 Cr.P.C. can reduce the sentence to the already undergone by the petitioners, if the parties have entered into a valid compromise.

In view of the above, the present revision petition is partly allowed. The Sentence awarded to the petitioners as mentioned above, is reduced to the sentence already undergone by them. However, imposition of fine and default clause for non-payment is upheld, the petitioners are granted two months' time to deposit the fine with the trial Court/Successor Court. Since, the petitioners are in judicial custody, they shall be released forthwith, if not required in any other case.

(ARVIND SINGH SANGWAN)
JUDGE

01.03.2018

Hemlata

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