

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4908-17

Date of Decision: 09.08.2018

Sarvjit Singh @ Kala and others

...Petitioners

vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mayur Karkra, Advocate for
Ms. Aashna Gill, Advocate
for the petitioners.

Mr. Himmat Singh, DAG, Haryana.

Mr. Abhilaksh Grover, Advocate and
Mr. Kirpal Singh, Advocate
for the complainant.

ARVIND SINGH SANGWAN,J

Challenge in this revision petition is to the judgment of conviction dated 13.06.2014, vide which petitioners-Sarvjit Singh @ Kala, Mohakam Singh @ Ladi, Gur Mohinder Singh @ Chhinda and Gurdeep Singh were convicted for commission of offence punishable under Sections 323/324/326 & 506 IPC read with Section 34 IPC and were sentenced 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 324 of IPC read with Section 34 IPC.

c. Simple imprisonment for three years for the commission of offence punishable under Section 326 of

*IPC read with Section 34 IPC and are also sentenced to pay a fine of Rs.1,000/- each, which shuould be released to the complainant as compensation for the injuries suffered by him at the hands of the Convicts. 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.

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. Main case filed be then consigned to the record room after due compliance.”

Challenge is also made to the judgment dated 08.12.2017 passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhri, whereby, 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>U/S 324 r/w 34 IPC</i>	<i>to undergo simple imprisonment for a period of two years, each.</i>
<i>U/S 326 r/w 34 IPC</i>	<i>to undergo simple imprisonment for a period of three years and to pay fine of Rs.1,000/- each. In default of payment of fine, 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>
<i>All the sentences are ordered to run concurrently.</i>	

Brief facts of the case are that on 17.06.2008, on receiving an

information about admission of one Azad Singh in Government Hospital, Jagadhri, the police reached the hospital and found that Azad Singh and Sandeep Kumar were hospitalized. On 18.06.2008, the statement of injured Azad Singh was recorded whereas accused Sandeep Kumar was referred to PGI, Chandigarh. In the statement of Azad Singh, he stated that he is student and on 17.06.2008, he alongwith his cousin Sandeep Kumar was standing in front of his shop. In the meantime, he heard a noise regarding an altercation between his uncle Sushil Kumar and Saravjit Singh @ Kaka, Mohkam Singh @ Ladi, Gurvinder Singh and Gurdeep Singh. They reached at their place where he found that the accused persons were armed with sword, *gandasi* and lathis and were proclaiming that they will teach a lesson to the complainant's party. Thereafter, accused Saravjit Singh gave a sword blow on the left side of face of Sandeep Kumar, accused Gurvinder Singh gave a lathi blow on the right arm of Sandeep Kumar, accused Mohkam Singh gave *gandasi* blow on the left arm of the complainant and Gurdeep Singh gave lathi blow on his left arm. The injured persons were saved by the residents of the locality and were referred to the hospital. On his statement, FIR No. 83 dated 18.06.2008, under Sections 323,324,506 and 34 IPC was registered. Later on, Section 326 IPC was added. Thereafter, the police submitted the challan against accused persons and one person, namely, Gurdeep Singh was summoned as an additional accused under Section 319 Cr.P.C.

The trial Court, vide impugned judgment of conviction and order of sentence held the petitioners/accused persons guilty and ordered them to undergo the sentence as mentioned in the earlier part of this judgment.

Thereafter, in an appeal, the lower Appellate Court, while upholding the judgment of conviction, reduced the sentence of the petitioners/accused persons, as stated in the earlier part of this judgment.

The present petition is 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 complainant and accused persons alongwith there counsel appeared and recorded their statements on 17.07.2018. Both the parties, in clear and unequivocal terms, deposed that they have compromised the matter and have undertaken to withdraw all the cases pending between them. It is 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 mutually decided by them that in order to maintain peace and harmony between the families of the petitioners and the complainant, which is also in larger interest to maintain peace in the village as the parties have settled their criminal 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 per 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 petition.

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.

Considering the fact that the incident pertains to the year 2008 and prior to this incident none of the petitioner was involved in any criminal case and even subsequent thereto, they are neither involved in any other case nor have shown any aggression against the opposite party and have 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 petition, 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.

In view of the above, the petition stands partly allowed.

09.08.2018

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(ARVIND SINGH SANGWAN)

JUDGE

Whether speaking/reasoned : Yes/No.

Whether Reportable : Yes/No