

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

CRR No.3237 of 2018 (O&M).

Decided on:-October 17, 2018.

Sunil Kumar and another

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

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

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Present:-    Mr. Parminder Singh, Advocate  
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Abhishek Singla, Advocate  
for the complainant.

**HARI PAL VERMA, J. (Oral)**

**CRM-36835-2018**

Prayer in this application filed under Section 482 Cr.PC is for disposal of the criminal revision on the basis of compromise dated 01.10.2018 (Annexure P-2) effected between the parties and in the light of affidavit furnished by the complainant Ram Pal, dated 01.10.2018 (Annexure P-3).

The documents Annexures P-2 and P-3 are taken on record subject to all just exceptions.

CRM stands disposed of.

**CRR No.3237 of 2018**

Petitioners Sunil Kumar and Ashok Kumar have filed the present revision petition against the judgment dated 12.09.2018 passed by learned

Additional Sessions Judge, Bathinda whereby their appeal against the judgment of conviction and order of sentence dated 14.10.2015 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Talwandi Sabo, was dismissed with modification in the order of sentence.

Briefly stated, FIR No.126 dated 29.10.2012 under Sections 325, 341, 323 and 506 read with Section 34 IPC was registered against the petitioners at Police Station Raman on the allegations that on 24.10.2012 the petitioners got demolished the roof of the house in which complainant Rampal along with other family members was residing. When the complainant tried to stop them, the petitioners, who were armed with iron rods, gave several blows of iron rods on various parts of the body of the complainant including his head. The complainant raised a 'raula' and many people gathered there. After causing injuries, the petitioners fled away from the scene of occurrence with their respective weapons after threatening to kill the complainant.

The investigation was conducted by the police. Rough site plan was prepared. The petitioners were arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the petitioners. Finding a *prima facie* case against the petitioners, both of them were charge-sheeted under Sections 325, 323, 506 and 341 read with Section 34 IPC, to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment of conviction and order of sentence dated 14.10.2015 convicted the petitioners and sentenced them as under:

| Name of convict | Under Section                | Sentence        | Fine                                    |
|-----------------|------------------------------|-----------------|-----------------------------------------|
| Sunil Kumar     | 323 IPC                      | RI for 6 months | Rs.500/-, in default SI for 15 days.    |
|                 | 506 read with Section 34 IPC | RI for 6 months | Rs.500/-, in default SI for 15 days.    |
|                 | 325 read with Section 34 IPC | RI for 2 years  | Rs.2,000/-, in default SI for 3 months. |
| Ashok Kumar     | 325 IPC                      | RI for 2 years  | Rs.2,000/-, in default SI for 3 months. |
|                 | 323 read with Section 34 IPC | RI for 6 months | Rs.500/-, in default SI for 15 days.    |
|                 | 506 read with Section 34 IPC | RI for 6 months | Rs.500/-, in default SI for 15 days.    |

It was, however, ordered that all the aforesaid substantive sentences shall run concurrently.

Feeling aggrieved of their conviction and sentence by learned Magistrate, the petitioners preferred an appeal before the Court of Session. However, vide judgment dated 12.09.2018 passed by learned Additional Sessions Judge, Bathinda, appeal of the petitioners was dismissed though with modification in the order of sentence that the sentence passed upon petitioner Sunil Kumar under Section 325 read with Section 34 IPC and petitioner Ashok Kumar under Section 325 IPC was reduced to one year each from two years awarded by trial Court.

It is in the aforesaid circumstances, the petitioners have filed the present revision petition.

At the outset, learned counsel for the petitioners has not challenged the conviction in the present revision on merits and confined his submissions for a lenient view regarding quantum of sentence only. He has submitted that the petitioners are first time offenders and no other case is pending against them. They are the only bread earners of their respective families. As against the awarded sentence of one year by learned appellate Court, the petitioners have already undergone imprisonment from 12.09.2018 the date on which their appeal was dismissed, till 03.10.2018 when this Court suspended their sentence for a period of 15 days.

He has further contended that the matter has been compromised between the parties with the intervention of the Panchayat and respectable persons. The petitioners and the complainant belong to one village and are neighbours of each other. He has referred to the compromise dated 01.10.2018 (Annexure P-2) and the affidavit of complainant Rampal dated 01.10.2018 (Annexure P-3). Thus, he has prayed that the sentence of imprisonment awarded to the petitioners may be reduced to the period already undergone by them.

On the other hand, learned State counsel has not disputed the custody of the petitioners, but has opposed the plea of taking liberal view, as pleaded by learned counsel for the petitioners. However, he states that there is no other case against the petitioners.

Learned counsel for the complainant has accepted the factum of compromise between the parties vide compromise and affidavit (Annexures P-2 and P-3) respectively. He has further stated that the complainant has no objection in case the sentence of imprisonment awarded to the petitioners is reduced to the period already undergone by them.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 323, 325 and 506 read with Section 34 IPC. The appellate Court has also dismissed their appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as against the awarded sentence of one year by learned appellate Court, admittedly, the petitioners have already undergone imprisonment from 12.09.2018, the date on which their appeal was dismissed by learned appellate Court, till 03.10.2018 when this Court suspended their sentence for a period of 15 days. They are first time offenders and there is no other case pending against them. They have been facing the agony of criminal proceedings since 29.10.2012 i.e. the date when the FIR in question was registered against them.

Moreover, the matter has been compromised between the parties in terms of compromise (Annexure P-2) and affidavit (Annexure P-3) executed by the complainant.

Therefore, taking into account the protracted trial, antecedents of the petitioners coupled with the fact that the matter has been compromised between the parties, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them, however, subject to payment of Rs.10,000/- (Rs.5,000/- each) by the petitioners to the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh.

Ordered accordingly.

However, there will be no change in the sentence of fine.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

The petitioners are directed to deposit the receipt of the aforesaid amount with the CJM/Duty Magistrate, Bathinda within a period of 15 days from today, failing which the present criminal revision shall stand dismissed in toto.

**October 17, 2018**

Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No