

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

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CRR-562-2018 (O & M)
Date of Decision:05.12.2018

Arun and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioners.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioners, namely, Arun and Raj Kumar have filed the present revision petition against the judgment dated 05.02.2018 passed by learned Additional Sessions Judge, Jhajjar whereby their appeal against the judgment of conviction dated 13.06.2017 and order of sentence dated 14.06.2017 passed by learned Judicial Magistrate 1st Class, Jhajjar, was dismissed.

Briefly stated, an FIR No.259 dated 28.04.2013 under Sections 323, 324 and 34 IPC was registered against the petitioners-accused at Police Station Jhajjar on the statement of complainant-injured Bal Kishan. He had stated in his statement that during the night of 24/25.04.2013 at about 11.00 pm, he woke up by a noise of quarrel, coming from the gali outside his house. He went outside and found that the accused Raj Kumar with a pharsa and Arun having a saria were in altercation with his nephew Praveen son of Ved Pal. When he tried to intervene and resolve the dispute, Raj Kumar inflicted a 'pharsa' blow and Arun inflicted a 'saria' blow in his head. As a

result, he fell on the ground and went unconscious. His other nephew namely Satender also received injuries in this quarrel. They both were admitted to Government Hospital, Jhajjar. The cause behind this assault was that the assailants were bent upon to park their vehicle in the plot of Parveen.

After completion of investigation, Challan was presented in the Court. The copies of Challan as envisaged under Section 207 Cr.PC were supplied to the accused free of costs. On finding a prima-facie case, the accused were charge sheeted for the commission of offences punishable under Sections 323 and 324 IPC read with Section 34 IPC to which they pleaded not guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 13.06.2017 and order dated 14.06.2017 convicted the petitioners and sentenced them as under:-

<u>Name of convicts</u>	<u>Offences</u>	<u>Period of Sentence</u>
Arun and Raj Kumar	323 read with Section 34 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.1000/- each and in default of payment of fine to further undergo simple imprisonment for a period of twenty days.
	324 read with Section 34 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- each and in default of payment of fine to further undergo simple imprisonment for a period of twenty days.

It was further ordered that all the substantive sentences shall run concurrently.

Feeling aggrieved, the petitioners preferred an appeal against

the said judgment and order of sentence before the Court of Session. However, vide judgment dated 05.02.2018 passed by learned Additional Sessions Judge, Jhajjar, the appeal was dismissed. 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 conviction of the petitioners and has confined his arguments qua the quantum of sentence only. He has contended that as against the awarded sentence of one year, petitioners - Arun and Raj Kumar have already undergone imprisonment for one month. He has further contended that the petitioners are first time offenders and there is no other criminal case pending against them. They have been suffering the agony of criminal proceedings since the date when the FIR in question was registered against them. Thus, he has prayed that the sentence of the petitioners may be reduced to the period already undergone by them.

Learned State counsel has filed the custody certificates showing the custody period of both the petitioners in the Court today, which is taken on record. He has not disputed the custody of the petitioners, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioners. However, he states that there is no other case against the petitioners.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 323 and 324 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 its 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 petitioners, namely, Arun and Raj Kumar is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, admittedly, petitioners Arun and Raj Kumar have already undergone imprisonment for one month. They are the first time offenders and no other case is pending against them. They have been facing the agony of criminal proceedings since the date when the FIR in question was registered against them. Therefore, taking into account the protracted trial, antecedents of the petitioners as well as the period of their incarceration, 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 subject to payment of compensation of Rs.40,000/- (Rs.20,000/- each) to injured-complainant Bal Kishan, as envisaged under Section 357 Cr.P.C.

Ordered accordingly.

With aforesaid modification in the order of sentence, the present revision petition is disposed off.

05.12.2018

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No