

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

240-2 cases

**CRR-132-2019 (O & M)
Date of Decision:03.05.2019**

Resham Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

**CRR-124-2019 (O & M)
Date of Decision:03.05.2019**

Raju Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Deepak Gupta, Advocate
for the petitioners in CRR-132-2019.

Mr. G. S. Sandhu, Advocate for the petitioner in
CRR-124-2019.

Mr. Harsimar Singh Sitta, AAG, Punjab.

MANOJ BAJAJ, J.

This common order, disposes off the above mentioned two revision petitions preferred by the petitioner(s) to challenge the Appellate Court judgment dated 26.11.2018, passed by the learned Additional Sessions Judge, Bathinda, whereby the judgment of conviction and order of sentence dated 08.02.2017 passed by the trial Court against the petitioner(s) was upheld.

The prosecution arises from case FIR No.19 dated 20.02.2013 under Sections 325, 323 and 34 IPC, Police Station Nahianwala. The petitioner(s) were awarded sentence of one year along with fine of ₹500/- for the offence punishable under Section 325 read with Section 34 IPC; six months for the offence punishable under Section 323 read with Section 34 IPC, and in default of payment of fine, convicts were ordered to undergo rigorous imprisonment for two weeks. All the sentences were ordered to run concurrently.

The facts leading to the revision petitions are noticed below.

Upon a statement given by Gurmail Kaur (Ex.PA), the above FIR was registered wherein it was alleged that her widowed daughter Paramjit Kaur was residing with her, whereas her son Manga Singh along with his family was residing separately in a nearby house. On 13.01.2013 at 9.00 PM, the complainant heard '*lalkaras*' and went out in the street to notice that Resham Singh in a drunkard condition was raising '*lalkara*'. Raju armed with '*dang*' and Malkit Singh armed with '*soti*' in drunkard condition were also abusing the son (not present at the spot) of the complainant. When complainant asked them not to do so, then Raju gave a '*dang*' blow on her left shoulder and Malkit Singh hit at her left hand with '*soti*'. The complainant raised an alarm and Paramjit Kaur came to save her. Then Raju and Malkiat Singh caused injuries to Paramjit Kaur on her head, left hand and back. At that stage, Naib Singh came at the spot and accused persons along with their weapons fled away. It was narrated that the motive behind this occurrence was a previous quarrel between Manga Singh and accused persons which stood resolved through Panchayat by way of a compromise.

After investigation of this case, the final report (challan) under

Section 173 Cr.P.C. was submitted before the Court and the learned trial Court after completion of formalities proceeded to frame the charges against the accused persons under Sections 325/323 read with Section 34 IPC. The accused had claimed trial.

To bring home the guilt of the accused persons, the prosecution in all examined 6 witnesses and also adduced documentary evidence. Thereafter the statements of accused persons were recorded under Section 313 Cr.P.C., wherein explanation offered by the accused was that in fact complainant party had caused injuries to Malkit Singh and his wife Sukhdev Kaur, but got registered a false case against them. In defence, MLR pertaining to Sukhdev Kaur and Malkit Singh were produced as Ex.DA and Ex.DB respectively.

The trial Court after examining the material on record proceeded to hold accused persons guilty and imposed the sentence as notice above. Dissatisfied with the judgment of conviction and order of sentence dated 08.02.2017 passed by Judicial Magistrate Ist Class, Bathinda, an appeal was carried by the convicts jointly bearing Appeal No.164/2017. Gurmail Singh also preferred an appeal bearing No.156/2017 for enhancement of sentence. Both the appeals were decided by the common judgment dated 26.11.2018 passed by learned Additional Sessions Judge, Bathinda. The prayer of the convicts for reduction of sentence was also declined and at the same time appeal brought by Gurmail Kaur for enhancement of sentence also failed.

On 17.01.2019 and 21.01.2019, learned counsel appearing on behalf of the petitioner(s) were heard respectively in the above revision petitions and after arguing for sometime, learned counsel did not press their

challenge to the conviction part in the impugned judgment and confined their prayer only for reduction of sentence alone.

Learned counsel for the petitioner(s) contends that the petitioners are first offenders and neither there is any case pending against them nor they were previously convicted in any other criminal case. According to them, the requisite fine imposed by the trial Court already stands deposited. It is contended that a lenient view may be taken against the petitioners as both Malkit Singh and Raju Singh, father and son respectively have been convicted. It is pointed that their prayer for extending the benefit of probation before the Appellate Court was not accepted and the sentence imposed by the trial Court was maintained. It is prayed that the petitioners be released on probation or in the alternative their sentenced be reduced to the period already undergone.

At this stage, learned counsel for the State has referred to the custody certificate dated 12.04.2019 filed by Sukhwinder Singh, PPS, Superintendent, Central Jail, Bathinda to contend that each of the petitioner has undergone a period of more than five months pursuant to the impugned judgment of conviction and order of sentence. It is not disputed that there is no other case against any of the petitioners.

After hearing learned counsel for the parties, this Court finds that the petitioner(s) have been suffering the agony of trial and appeal etc. for the last more than six years, and prior to this occurrence, the petitioners were never embroiled in any other case. It would be relevant to note here that except for this occurrence, there was no incident between the parties, who belong to the same village. The petitioners (father and two sons) are earning hands for their families and, therefore, some leniency deserves to be

extended to them, considering the nature of offence and other attending circumstances. The ends of justice would be met in case the sentence imposed upon the convicts is reduced to the period already undergone by them.

Resultantly, the petition is partly allowed, and the conviction recorded by the learned trial Court and upheld by the Appellate Court is maintained. However, the order of sentence is modified and reduced to the period already undergone by the convicts. The petitioners be released forthwith, if their custody is not required in any other case.

Revision petitions are disposed off.

03.05.2019

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(MANOJ BAJAJ)
JUDGE

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