

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.635 of 2019

DATE OF DECISION: MAY 30, 2019

MAHENDER & ORS.

...PETITIONERS

VERSUS

STATE OF HARYANA & ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. SANJEEV KODAN, ADVOCATE FOR THE PETITIONERS.
MR. ANMOL MALIK, AAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

The petitioners have preferred the revision petition challenging the Appellate Court judgment dated 26.2.2019 passed by the learned Addl. Sessions Judge, Jhajjar, whereby the judgment of conviction dated 11.12.2017 and order of sentence dated 12.12.2017 passed by the trial Court against the petitioners was upheld.

The prosecution arises from case FIR No.111 dated 11.2.2014, under Sections 323, 325, 34 IPC, Police Station Jhajjar. The petitioners were awarded R.I. for 6 months alongwith fine of ₹200/- and in default of payment of fine, to undergo a further period of S.I. for 1 month for the offence punishable under Section 323 read with Section 34 IPC and R.I. for 1 year alongwith fine of ₹500/- and in default of payment of fine, to undergo a further period of S.I. for 2 months for the offence punishable under Section 325 read with Section 34 IPC. Both the sentences were ordered to run concurrently.

The facts leading to the revision petitions are that upon a

statement given by Devender, the above FIR was registered wherein it was alleged that when his nephew Nikhil was playing in a plot, Pinki wife of Mahender Singh threw garbage over there. On an objection raised by Nikhil, he was thrashed by Pinki. Thereafter, Ravinder went to the house of Pinki for complaining about the thrashing given. There, Mahender, Pinki and their sons Mandeep and Manjeet gave injuries to him. On hearing Ravinder's voice, Devender reached the place of occurrence, who was also given beatings and his teeth were broken. Thereafter another relative, namely, Devender rushed to the spot, who was also given beatings. Thereafter the accused fled away.

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 323, 325 read with Section 34 IPC. The accused pleaded not guilty and claimed trial.

To bring home the guilt of the accused persons, the prosecution in all examined 8 witnesses. Thereafter the statements of accused persons were recorded under Section 313 Cr.P.C., wherein they denied all the incriminating evidence against them and pleaded innocence.

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 dated 11.12.2017 and order of sentence dated 12.12.2017 passed by learned Chief Judicial Magistrate, Jhajjar, an appeal was carried by the convicts jointly bearing Appeal No.62 of 2018 before the learned Addl. Sessions Judge, Jhajjar

which was dismissed vide judgement dated 26.2.2019.

On 14.3.2019, learned counsel appearing on behalf of the petitioners was heard and it was stated that the petitioners are ready to settle the dispute and further to facilitate the same, petitioners No.1 and 2 were also granted interim bail.

Learned counsel for the petitioner submits that after the release of petitioners No.1 and 2, an attempt was made to enter into compromise with the victims/complainant and expressed their willingness to compensate them adequately. However, there is no representation on behalf of the complainant in the present case and therefore, the stand of compromise is not acceptable.

At this stage, learned counsel for the petitioners contends that his challenge to the conviction part in the impugned judgement is not pressed and the prayer is confined to the extent of reduction in quantum of sentence alone awarded to the petitioners.

Learned counsel for the petitioners 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. It is contended that a lenient view may be taken against the petitioners as complete family stands convicted.

Learned counsel for the State has not disputed this fact that there is no other case against any of the petitioners.

After hearing learned counsel for the parties, this Court finds that the petitioners have been suffering the agony of trial and appeal etc. for the last more than five years, and prior to this occurrence, the petitioners

were never involved 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. Complete family, i.e., father, mother and both the sons stand convicted and sentenced, 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, subject to the condition that they shall pay a compensation of ₹30,000/- in total, to the complainant and injured persons, to be shared equally 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 with the aforesaid direction and is reduced to the period already undergone by the convicts.

Petitioners No.1 and 2 are on interim bail. Their bail bonds stand discharged. Petitioners No.3 and 4 are in custody. They be released forthwith, if their custody is not required in any other case.

Revision petition stands disposed off.

May 30, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No