

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-169-2009

Date of Decision: 4.9.2019

Karamdin Munshi

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.S. Behl, Advocate, for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Mr. Raman Mahajan, Advocate, for the complainant.

Harnaresh Singh Gill, J.

Petitioner along with his co-accused Jagdev Singh was tried for committing the offences under Sections 353, 186, 187 read with Section 148 and 149 IPC. Vide judgment and order dated 7.3.2006 passed by the learned Judicial Magistrate, Ist Class, Fatehgarh Sahib, the accused were convicted for the offences under Sections 186, 187, 353 read with Section 34 IPC and sentenced as under:-

Section 186 read with Section 34 IPC	RI for three months
Section 187 read with Section 34 IPC	SI for six months and to pay a fine of Rs.500/- each and, in default of payment of fine, to further undergo SI for one month each.
Section 353 read with Section 34 IPC	RI for one year and to pay a fine of Rs.500/- each, and in default of payment of fine, to further undergo SI for one month.

All the sentences were ordered to run concurrently.

Aggrieved of the judgment and order passed by the learned trial Court, two appeals, one by the petitioner and another by co-accused Jagdev Singh, were filed before the learned Sessions Judge, Fatehgarh Sahib. Vide judgment dated 6.1.2009 passed by the learned Additional Sessions Judge, Fatehgarh Sahib, both the said appeals were dismissed, thereby affirming the judgment and order passed by the trial Magistrate.

The criminal prosecution against the petitioner and his co-accused, was put into motion on the basis of a criminal complaint filed by the complainant (Punjab and Haryana High Court), with the allegations that a Criminal Writ Petition No. 586 of 1997 was filed by one Jagbir Singh under Article 226 of the Constitution of India for the release of detenues in the custody of M/s G.S. Brick Kiln, situated at village Bhata, Police Station Badali, Tehsil and District Fatehgarh Sahib and accused-Karamdin Munshi of the said Brick Kiln. The said case came up for hearing before this Court on 29.4.1997 and this Court, while issuing notice of motion, had also appointed a Warrant Officer with a direction to go to the premises of the respondents therein to search for the detenues and produce them before the Court. Accordingly, a Warrant Officer was appointed by the Registrar (Judicial). Civil Misc. application was filed in the pending Criminal Writ Petition, by the counsel for the petitioner therein, wherein this Court passed the order regarding the release of the detenues therein, in case, they were found in unlawful

detention. However, the Warrant Officer submitted his report that he, on having reached the premises, had served respondent No.2 therein (the present petitioner) with the warrants and apprised them of the purpose of his visit. At that time Attar Singh, Jamadar of the labour was also present there. Petitioner (Karamdin) gave in writing to the Warrant Officer that the labour had taken advance wages to the tune of Rs.1,40,000/-, but they had only worked to the extent of Rs.60,000/- wages. Attar Singh also got recorded in writing that he was to take Rs.80,000/- from the labour and that the labour in order to misappropriate the said amount, had got filed the writ petition. On the asking of the Warrant Officer, all the detenues (labour) had boarded the canter in order to leave the brick kiln premises, but at that time, Jagdev Singh, Karamdin and Attar Singh, Jamadar along with 20/25 persons of labour class, stopped the canter from proceeding ahead. Despite having been clearly apprised of the orders passed by this Court, the said persons did not desist from doing so. In this process, the taxi (canter) driver also got injured. The police tried to resolve the matter, but to no avail. In this way, the accused had obstructed and prevented the Warrant Officer from complying with the orders dated 29.4.1997 passed by this Court by use of the criminal force. Thereafter, this Court in its order dated 6.5.1997 had noticed the fact that the Warrant Officer had been obstructed by certain persons from performing his duty. The Registrar (Judicial) was, accordingly, directed to lodge a complaint with regard to this

incident with the Court concerned within 7 days. Accordingly, the present complaint was filed.

After recording the preliminary evidence, the accused were ordered to be summoned to face the trial. On their appearance, the accused were supplied with the copy of the complaint. Attar Singh accused was declared a proclaimed offender.

Pre-charge evidence having been recorded, the accused were charged for offences under Sections 353, 186, 187 read with Section 148 and 149 IPC. The accused denied the charges and claimed trial.

In order to prove the guilt on the part of the accused, in post charge evidence, the complainant had examined 5 witnesses, including the Warrant Officer, namely, PW2-Satwinder Kumar, Reader of this Court.

Statement of accused under Section 313 Cr.P.C. was recorded. The accused denied the allegations and pleaded false implication

On the basis of the evidence led, it stood proved before the learned trial Court that the accused had used force to deter the Warrant Officer from performing his lawful duties and the testimonies of the witnesses examined by the complainant had duly corroborated the said allegations. Accordingly, the learned trial Court, convicted and sentenced the accused as noticed above. The appeals preferred by both the accused were dismissed by the learned Additional Sessions Judge, Fatehgarh Sahib.

It may be noticed that CRR-300-2009 filed by co-accused Jagdev Singh, stands abated, vide the order of even date, in view of the death of the said accused.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that the alleged incident in this case pertains to the year 1997. The petitioner has been, thus, facing the agony of trial for the last 21 years. Besides, out of his substantive sentence of 1 year, the petitioner has already undergone a period of approximately three months. Thus, a prayer has been made for reducing the sentence imposed upon the petitioner to the one already undergone by him.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that both the Courts below have recorded a finding that the accused-petitioner had obstructed the Warrant Officer from executing his duties, which had ultimately resulted into the non-compliance of the orders passed by this Court. Such finding does not suffer from any parent illegality and hence, a prayer is made for dismissal of the revision petition.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Sections 186, 187, 353 read with Section 34 IPC. In my opinion, no case is made out for interference in the judgments and order passed by the Courts below so far as the conviction part is concerned. Hence, the conviction of the petitioner is upheld.

While coming to the sentence part, by now, the petitioner has already undergone approximately 3 months out of the total substantive sentence of one year. Taking into consideration that the occurrence in this case pertains to the year 1997 and the fact that the petitioner has been facing the agony of trial for the last 21 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again, to undergo the remaining sentence. Instead, ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

In view of the above, while upholding the conviction of the petitioner under Sections 186, 187, 353 read with Section 34 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him, but subject to payment of Rs.10,000/- as fine. The fine amount shall be deposited by the accused-petitioner with the High Court Legal Services Committee, within a period of two months from today.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

04.09.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No