

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1306-2011

Date of decision: 04.04.2019

Prithvi Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. HS Deol, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this revision, the petitioner-accused had laid challenge to the judgment dated 24.05.2011 of the Ist Appellate Court, whereby his appeal against the judgment of conviction dated 28.01.2006 and order of sentence dated 01.02.2006 of the trial Court was dismissed and his sentence under Section 326 IPC was enhanced from six months rigorous imprisonment to one year rigorous imprisonment, maintaining the fine and default clause.

Briefly, the petitioner along with his co-accused were booked and tried in case FIR No. 113 dated 19.06.1996, registered under Sections 148, 149, 323 and 506 IPC, Police Station Sadar, Rewari, on the allegations that there was some land dispute in between the complainant and the petitioner. Around 12.30 p.m. on 19.09.1996, co-accused of the petitioner, namely; Lila Ram informing the complainant-Kamla Devi, went to plough her fields with tractor. The complainant along with her son-Satyavir, also

went there. The petitioner along with his accomplice, namely; Jaipal, Lila Ram and Santosh (wife of petitioner) armed with deadly weapons like iron rod, jelly, lathi, danda etc. was present there. On seeing the complainant and her son, all of them raised lalkaras to kill her and with common object caused injuries to the complaint on her both legs, right shoulder, right hand, back and hips with their respective weapons. On raising alarm, Dinesh S/o Jage Ram and Surat Singh came at the spot and rescued the complainant from the clutches of accused persons. After holding full fledged trial, the petitioner and his wife Santosh were convicted under Sections 326 and 323 IPC, respectively and sentenced as under:-

Prithvi Singh	To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.2000/- under Section 326 IPC. In default thereof, to further undergo simple imprisonment for a period of one month.
Santosh	Sentenced to pay a fine of Rs.1000/- under Section 323 IPC. In default, thereof, to undergo simple imprisonment for one month.

Fine amount was ordered to be released to injured-complainant.

Being aggrieved, the petitioner and his wife-Santosh approached the Ist Appellate Court, for setting aside the judgment of conviction dated 28.01.2006 and order of sentence dated 01.02.2006 of the trial Court. Simultaneously, complainant-Kamla Devi, also filed revision to enhance sentence of petitioner and his wife. The Ist Appellate Court, after hearing both the sides, while dismissing the appeal of petitioner and his wife and accepting the revision filed by the complainant-injured, enhanced the sentence of petitioner, in the manner as narrated above.

Learned counsel for the petitioner *inter alia* contending that petitioner is old aged person and is facing the agony of trial for more than

protracted criminal trial has been hanging on his head like a damocle's sword which is also a mitigating circumstance to treat him leniently in the matter of sentence and that petitioner is the first offender and has not committed or found involved in any other case, restricted his arguments qua quantum of sentence. The petitioner had already undergone around 1½ months approximately, out of the actual sentence of 1 year.

On the other hand, learned State counsel strongly refuting the submissions of learned counsel for the petitioner, pleaded the legality and validity of the impugned judgment. He contends that the petitioner has committed heinous crime, therefore, he does not deserve any leniency.

Having given thoughtful consideration to the rival submissions and the fact that petitioner has already faced a protracted trial for around 22 years suffering great mental agony, this Court finds it a fit case to reduce the sentence of petitioner.

Consequently, the revision is dismissed qua conviction of the petitioner. However, the impugned judgment dated 24.05.2011 of the Ist Appellate Court, is modified to the extent that the sentence awarded to the petitioner to undergo rigorous imprisonment for one year is reduced to rigorous imprisonment for six months, awarded by the trial Court.

Disposed of.

A copy of this order be sent to the Chief Judicial Magistrate, Rewari, who shall issue warrants of arrest against the petitioner to undergo remaining part of his sentence.

April 04, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No