

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 20.03.2019

1. C.R.R. No.1229 of 2012 (O&M)

Naresh Kumar and others

..... Petitioners

Versus

State of Haryana

..... Respondent

2. C.R.R. No.2132 of 2012 (O&M)

Ramesh Kumar

..... Petitioner

Versus

State of Haryana & others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Gaurav Mohunta, Advocate and
Ms. Preeti Aggarwal, Advocate
for the petitioners (CRR-1229-2019).

Mr. J.P.Sharma, Advocate
for the complainant (CRR-1229-2012)
for the petitioner (CRR-2132-2012).

Mr. Himmat Singh, DAG, Haryana.

AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two revision petitions as in both the cases challenge has been led to the common judgment dated 26.03.2012 passed by the appellate Court.

The brief facts of the case are that on receipt of an intimation regarding admission of injured Ramesh Kumar in the hospital the police recorded his statement where he apprised the police that pursuant to an altercation Naresh, Vijay and Gyanesh assaulted and criminally intimidated him.

After registration of the case against the accused it was investigated. Charges under Sections 323/324/326/506 read with Section 34 IPC were framed against the accused.

At the trial the prosecution examined 10 witnesses and relied upon number of documents. The accused abjured the trial in their statement under Section 313 Cr.P.C. and claimed false implication. They examined two witnesses in their defense. On appraisal of the evidence on record the trial Court rejected the defense version and held the accused guilty under Sections 323/324/326/506 read with Section 34 IPC and sentenced them in the manner as below :-

<i>Name of the convict</i>	<i>323/34</i>	<i>324/34</i>	<i>326/34</i>	<i>506/34</i>
Naresh	RI for 3 months	RI for 6 months	RI for 1 year and fine of Rs.5,000/- and in default thereof further SI for 6 months.	RI for 6 months.

<i>Name of the convict</i>	<i>323/34</i>	<i>324/34</i>	<i>326/34</i>	<i>506/34</i>
Vijay	RI for 3 months	RI for 6 months	RI for 1 year and fine of Rs.5,000/- and in default thereof further SI for 6 months.	RI for 6 months.
Gyanesh	RI for 3 months	RI for 6 months	RI for 3 years and fine of Rs.10,000/- and in default thereof further SI for 1 year.	RI for 6 months.

It is made clear that all the substantive sentences shall run concurrently except the sentence in default of payment of fine.

The accused filed an appeal challenging their conviction and order of sentence while the complainant by filing a separate appeal sought enhancement of the sentence.

Learned appellate Court vide judgment dated 26.03.2012 dismissed the appeal of the petitioners while the appeal of the prosecution was partly allowed and enhanced the sentence awarded to petitioner-Vijay under Section 326/34 IPC to 3 years.

CRR No.1229 of 2012 has been filed by the accused questioning their conviction and sentence while **CRR No.2132 of 2012** has been filed by the injured-Ramesh Kumar seeking enhancement of the sentence.

Counsel for the petitioners has pointed out that petitioner Gyanesh has undergone more than 10 months of sentence while petitioners Vijay Kumar and Naresh Kumar have undergone more than 4 months of sentence. He has further pointed out that the petitioners are the first offenders and all that was happened at the spur of moment. The petitioners

have no criminal background and have learnt their lesson and any further incarceration may not have any reformatory effect but may ultimately harden the petitioners. The offence pertains to a decade back and the petitioners have suffered the agony of trial during all these years.

Learned counsel for the complainant oppose the case and claim higher conviction.

In the circumstances, I deem it appropriate to reduce the sentence of petitioners No.1 and 2 to that which they had already undergone and reduce the sentence of petitioner No.3 to six months. Sentence of fine is maintained. The petitioner No.3 is on bail. He be taken into custody forthwith.

Revision petition stands disposed of.

CRR No.2132 of 2012

In view of the orders passed in ***CRR No.1229 of 2012*** the revision petition is dismissed.

Since the main cases have been decided, the pending criminal miscellaneous applications, if any, also stand disposed of.

20.03.2019
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No