

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1868-2012

Date of Decision: 27.9.2019

Ram Kumar and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Nitin Neel, Advocate, for
Mr. S.K.Jain, Advocate, for the petitioners

Mr. Arjun Singh Yadav, AAG, Haryana.

Mr. Aditya Sanghi, Advocate, for the complainant.

Harnaresh Singh Gill, J.

The petitioners along with their co-accused Balbir Singh, were tried for committing the offences under Sections 148, 323, 325 read with Section 34 IPC. Vide judgment and order dated 31.07.2009 passed by the Judicial Magistrate, Ist Class, Dabwali, the petitioners and said Balbir Singh, were found guilty for the offences under Sections 147, 323 and 325 read with Section 149 IPC. The petitioners were sentenced as under:-

Under Section 147/149 IPC	Rigorous imprisonment for a period of two months and to pay a fine of Rs.200/- each and, in default of payment of fine, to further undergo RI for ten days.
Under Section 323/149 IPC	Rigorous imprisonment for a period of two months and to pay a fine of Rs.200/- each and in default of payment of fine, to further undergo

	rigorous imprisonment for 10 days.
Under Section 325/149 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month.

All the sentences were ordered to run concurrently. However, Balbir Singh was ordered to be released on probation of good conduct for a period of one year on his furnishing probation bonds in the sum of Rs.10,000/- with the surety in the like amount to keep peace and be of good behavior during the aforesaid period.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioners filed an appeal before the learned Sessions Judge, Sirsa. However, vide judgment dated 4.6.2012 passed by the learned Sessions Judge, Sirsa, the appeal filed by the petitioners was dismissed, thereby affirming the judgment and order passed by the trial Magistrate. The revision filed by Kalu Ram against the grant of probation, was also dismissed being not maintainable.

Still aggrieved, the petitioners have filed the present revision petition.

As per the prosecution case, Lilu Ram made a complaint that on 2.5.1999 at 8/8.30 a.m., he along with his son Kalu Ram was cultivating their fields when the petitioners along with other persons armed with weapons attacked them and inflicted injuries upon them. When brother of the complainant reached the place of occurrence, all of them had

fled away with their respective weapons. After registration of FIR, investigation was conducted and the petitioners were charged for various offences and found guilty by the learned trial Court and convicted accordingly, as mentioned above.

While convicting the petitioners, the trial Court recorded the following finding:-

“10. Now coming to the facts of the present case. As per the allegations of the prosecution on 2.5.1999 at about 8.00/8.30 a.m., PW-1 Lilu Ram and PW-2 Kalu Ram were present at their fiends and the accused persons came there having weapons in their hands and gave beatings to them and caused injuries to PW-1 Lilu Ram and PW-2 Kalu Ram. PW-1 Lilu Ram and PW-2 Kalu Ram also deposed that on 2.5.1999 when they were present in their fields, accused persons came there and gave beatings to them and injuries were caused to them. PW-1 Lilu Ram also received fracture. There is medical evidence on the file in the shape of MLR of PW-1 Lilu Ram Ex.PW-6/A and MLR of PW-2 Kalu Ram Ex.PW-6/C and X-ray report of PW-1 Lilu Ram Ex.PW-4/A. To prove the medical reports, Dr. S.L. Aggarwal appeared as PW-4, who proved X-ray report of PW1-Lilu Ram and stated that there is fracture of left ulna in its lower part. The prosecution also examined Dr. J.P. Malik to prove the MLR of PW-1 Lilu Ram and PW-2 Kalu Ram. On going through the evidence of PW-1 and PW-2, I am of the view that they had given material version of

incident which took place on 2.5.1999. Both PW-1 and PW-2 stood or dealt in their cross-examination and came out unscathed. There is nothing in their cross-examination which dents their veracity as truthful witnesses. No doubt, at few places PW-1 Lilu Ram and PW2-Kalu Ram were confronted with their previous statements but this only relates to minor discrepancies and did not make the entire evidence of PW-1 and PW-2 unreliable. Learned defence counsel submitted that entire evidence of PW2-Kalu Ram is inconsistent with the statement recorded under Section 161 of Cr.P.C. during investigation. No doubt, evidence of PW-2 to some extent is inconsistent with the statement recorded under Section 161 of Cr.P.C. by the investigating officer, but perusal of statement of Kalu Ram recorded under Section 161 of Cr.P.C. makes it evident that same was recorded by the Investigating Officer in a casual manner and it is well settled that the complainant cannot be allowed to suffer on the basis of defective investigation. PW-2 Kalu Ram when appeared in the witness box had given the material version of the incident which took place on 2.5.1999 and his evidence is fully consistent with the evidence of PW-1 Lilu Ram.”

The aforesaid finding was upheld by the learned appellate Court, while dismissing the appeal filed by the petitioners.

I have heard the learned counsel for the petitioners and the learned State counsel and with their able assistance have gone through the record of the case.

At the very outset, the learned counsel appearing for the petitioners has, while confining his prayer to the quantum of sentence, submitted that the FIR in this case was registered on 4.5.1999. The petitioners have been, thus, facing the agony of trial for the last 20 years. Besides, out of their substantive sentence of 1 year, the petitioners have already undergone a period of two months each. Apart from that the petitioners and the complainant are from the same village. Thus, a prayer has been made for reducing the sentence imposed upon the petitioners to the one already undergone by them. In support of his assertions, the learned counsel for the petitioners has relied upon the judgment of a Coordinate Bench of this Court report as Pardeep Kumar Vs. State of Punjab, 2008(8) RCR (Criminal) 613.

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-petitioners had caused injuries to PW-1 Lilu Ram and PW-2 Kalu Ram. Such finding based on cogent and convincing evidence, 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 petitioners for the offences under Sections 147, 323 and 325 read with Section 149 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 petitioners is upheld.

While coming to the sentence part, by now, the petitioners have already undergone 2 months out of the total substantive sentence of one year. Taking into consideration that the occurrence in this case pertains to the year 1999 and the fact that the petitioners have been facing the agony of trial for the last 20 years, in my opinion, no useful purpose would be served by sending the petitioners 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 petitioners is reduced to the one already undergone by them.

In view of the above, while upholding the conviction of the petitioners under Sections 147, 323 and 325 read with Section 149 IPC, the substantive sentence imposed upon the petitioners is reduced to the period already undergone by them, but subject to payment of fine Rs.2000/- each. The fine amount shall be deposited by the accused-petitioners before the learned Chief Judicial Magistrate, Sirsa, within a period of two months from today. Failing to comply with the directions regarding deposit of fine, shall amount to automatic dismissal of the revision petition.

Revision Petition is disposed of in the above terms.

27.09.2019

ds
Whether Speaking/ Reasoned:
Whether Reportable:

(HARNARESH SINGH GILL)

JUDGE

Yes/ No
Yes/ No