

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

361 Criminal Revision No. 277 of 2013 (O&M)
Date of Decision : 23.05.2019

Satpal and others

... Petitioners

Versus

State of Haryana

...Respondent

361-2 Criminal Revision No. 232 of 2013 (O&M)

Anil and another

... Petitioners

Versus

State of Haryana

...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sanjay Verma, Advocate for the petitioners
in CRR-232-2013.

Mr. D.S.Malwai, Advocate for the petitioners
in CRR-277-2013.

Mr. Tanuj Sharma, AAG, Haryana.

HARNARESH SINGH GILL,J.

This order shall dispose of Criminal Revisions No. 277 of 2013 and 232 of 2013, as both of them arise out of the judgment dated 11.01.2013 passed by the learned Additional Sessions Judge, Kurukshetra, dismissing the appeals filed by the petitioners against the judgment of conviction dated 17.09.2010 and order of sentence dated

18.09.2010 passed by the learned Judicial Magistrate Ist Class, Kurukshetra, had convicted and sentenced the accused-petitioners as under :-

<i>Under Section</i>	<i>Sentence</i>
148 IPC	R.I. for six months with fine of Rs.250/- each and in default of payment of fine further imprisonment for two months.
323 r/w 149 IPC	R.I. for three months with fine of Rs.250/- each and in default of payment of fine further imprisonment for one month.
324 r/w 149 IPC	R.I. for six months with fine of Rs.250/- each and in default of payment of fine further imprisonment for two months.
452 r/w 149 IPC	R.I. for one year with fine of Rs.500/- each and in default of payment of fine further imprisonment for four months.
506 r/w 149 IPC	R.I. for six months with fine of Rs.250/- each and in default of payment of fine further imprisonment for two months.

Brief facts of the present case are that on 24.12.2002 the complainant-Manoj Kumar gave statement to the police that on 22.12.2002 at about 10 p.m. He was present at his house. He heard the screams of help from the courtyard of Mahabir Singh. He and his mother, namely, Rattan Kaur came out of their house and saw Vikas Kumar armed with an iron rod, Shamsher Singh with a danda, Parmod with a hockey stick, Ajay Kumar and Bhupinder with lathis, Anil Kumar with a Hockey stick and Satpal and Suresh with Gandasis. All of them were giving beatings to Mahabir and Sunita. When complainant and his mother tried to rescue them, then Satpal asked other petitioners to leave them and teach a lesson to the complainant. Complainant and his mother rushed to the house and petitioners followed them and inflicted injuries to them. Thereafter, Jatinder, Mahabir Singh and Sunita came and rescued them. Then all the petitioners, present at the place of occurrence, ran away with their respective weapons.

In the present case, the petitioners were charged for the commission of offences punishable under Sections 148, 452, 323, 324, 325 and 506 read with Section 149 of Indian Penal Code, 1860 (for short 'IPC'). The prosecution had examined four witnesses including complainant, namely, Manoj Kumar as PW-1 and his mother, namely, Rattan Kaur as PW-2. After taking into consideration the evidence on record, the Judicial Magistrate Ist Class, Kurukshetra vide judgment of conviction dated 17.09.2010 and order of sentence dated 18.09.2010 convicted and sentenced the accused-petitioners, as mentioned above.

Aggrieved against the judgment and order dated 17/18.09.2010, the petitioners-accused filed two separate appeals which came up for hearing before the Additional Sessions Judge, Kurukshetra. The appeals of the petitioners-accused were dismissed, vide judgment dated 11.01.2013. Hence the present revision petition.

Learned counsel for the petitioners has argued that both the Courts below have failed to take into consideration the cogent and convincing evidence led by the accused-petitioners, which has caused miscarriage of justice to the petitioners. Learned counsel for the petitioners has further argued that the Investigation Officer, in the present case, had failed to elaborate the position of the site plan and had just mentioned the place of occurrence as point 'A' and 'B' without elaborating it. As per learned counsel this fact itself proves that the version of the prosecution and place of occurrence are not proved and the injuries alleged to have been attributed to the petitioners are not proved on record as the Doctor had not been examined to prove the factum of injuries. Learned counsel for the petitioners has further laid

stress on the fact that there is delay in lodging the FIR and no explanation had been given by the witnesses examined by the prosecution to prove the factum of delay. During the course of investigation conducted by the Investigating Officer, the petitioners, Anil and Ajay were exonerated and no challan was filed against them but later on an application under Section 319 Cr.P.C. was moved by the prosecution and said petitioners were summoned to stand the trial and charges were framed against them as well.

Per contra, learned State counsel has argued that the prosecution had successfully proved the guilt of the petitioners beyond the shadow of reasonable doubt. It has been further pointed out that complainant, namely, Manoj Kumar-PW1, injured, namely, Rattan Kaur-PW2, Sunita-PW3 and Mahabir Singh-PW4 had been examined and they had fully supported the version of the prosecution. As per learned State counsel initially the police filed the challan against six persons namely, Satpal, Suresh, Bhupinder, Vikas, Parmod and Shamsher. Vide order dated 02.04.2003, charges were framed against them. When four witnesses namely, Manoj Kumar, Rattan Kaur, Sunita and Mahabir Singh had already been examined, then an application under Section 319 Cr.P.C. was moved by the complainant and petitioners Anil and Ajay were also summoned to face the trial. Vide order dated 19.01.2009, charges were framed against them as well. Thus, the courts below have rather taken a lenient view while recording the conviction and sentencing the accused.

I have heard learned counsel for both the parties and have given my thoughtful consideration to the arguments raised by them and

after going through the record with their able assistance, I do not find any infirmity or irregularity in the judgment and order passed by the Courts below.

On the other hand, this Court is of the opinion that purpose of criminal law is to bring discipline, peace and harmony in the society and also to give an opportunity to erring individuals to reform themselves. It is apparent from the arguments and the records that sword of conviction had been hanging over the heads of the petitioners for the last more than 16 years. May be with the passage of time, they have reformed themselves and now are living a peaceful life and if at this stage, they are ordered to undergo the remaining sentence awarded to them, it will rather have an adverse effect. Thus, the petitioners deserve leniency as regards the sentence imposed upon them, at the hands of this Court.

Rather denying such opportunity to a person, who has been found to have committed an offence in the facts and circumstances placed on record, would only have a hardening attitude towards his fellow beings and towards the society at large.

In the present case, the petitioners were convicted on 17.09.2010 and were sentenced on 18.09.2010 by the trial Court. The appeal preferred by them was dismissed by the Sessions Court on 11.01.2013. Now out of sentence of one year, awarded to them, the petitioners have already undergone 2 months and 24 days. There is no other case pending or decided against them and during the period of suspension of sentence, the petitioners have not indulged themselves into any other illegal act.

Thus, taking into consideration the above facts and

circumstances, I do not find that any useful purpose would be served by sending the petitioners to jail at this point of time for undergoing the remaining period of sentence. Though ordinarily, in an anti-social offence under the IPC, this Court should take a strict view of such matter, yet taking into consideration that the petitioners have not committed any such offence and have been living a disciplined life, sentence of the petitioners deserves to be reduced to period already undergone by them.

Taking into consideration the cogent and trustworthy evidence produced by prosecution and well reasoned judgment and order of the Courts below, the findings recorded by the Courts below while convicting the petitioners, do not call for any interference and the same are accordingly affirmed.

However, keeping in view the fact that the petitioners have already undergone 2 months and 24 days of actual sentence, I feel that ends of justice would be suitably met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of fine of Rs.5,000/- each.

Accordingly, the conviction of the petitioners under Sections 148, 452, 323, 324, 506 read with Section 149 IPC is maintained. However, sentence qua imprisonment of the petitioners, is reduced to the period already undergone by them. The petitioners are directed to deposit ₹5,000/- each with the Chief Judicial Magistrate concerned within a period of one month from the date of the receipt of certified copy of this order. The fine so deposited, shall be paid as compensation to all the injured in equal share. It is made clear that in the event of failure to deposit the said amount, the revision petition shall stand dismissed.

With the aforesaid order, the revision petition is disposed of.

23.05.2019

pooja saini

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>