

CRR-3679-2013(O&M) 1

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

**CRR-3679-2013(O&M)
Date of decision: 04.12.2019**

Randhir Singh and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:- Mr.S.S.Narula, Advocate for the petitioners
 Mr. Anmol Malik, AAG, Haryana**

ANIL KSHETARPAL, J. (ORAL)

The petitioners have filed this revision petition against judgment of conviction passed by the Judicial Magistrate First Class which has been affirmed in appeal. Petitioners have been sentenced to rigorous imprisonment for 3 years under Section 326 IPC read with Section 34 IPC whereas for 6 months under Section 323 IPC read with Section 34 IPC.

Facts of the case have been noticed by the learned Court of Sessions which are extracted as under:-

“2. The prosecution case is that the complainant Harbilas Singh and his family has agricultural fields in village Balana, adjacent to the pond in the area of village Bhanolcheri. Near such fields, the fields of the accused Gurdev Singh (since deceased) are also situated. The complainant side has prepared a khal (water course) for irrigating their fields. The said water course is adjacent to the fields

of one Harbans Singh. On 7.12.2003, at about 8:00 am, the complainant Harbilas Singh, PWs Jarnail Singh, Karnail Singh and Karamjeet Singh were in their fields. In the meanwhile, the accused Gurdev Singh (since deceased), Randhir Singh, Jagtar Singh and Sarjeant came towards such fields and started destroying/damaging the water course with spades. The complainant Harbilas Singh and PW Jarnail Singh tried to stop them but they insisted in their action. Then, Gurdev Singh brought gandasi, Randhir Singh brough Takua, Jagtar Singh brought sword and Sarjeant Singh brough stick from their fields. Gurdev Singh raised a lalkara to teach lesson to the complainant party for possessing the water course. He then gave his gandasi blow to the complainant Harbilas Singh. It hit him on his left hand as he raised such hand. Due to such blow, all left hand fingers of the complainant, except thumb, were cut. All the four fingers except little finger were separated from their position. Jagtar Singh gave his sword blow to the complainant Harbilas Singh. It hit his left temporal side on his ear. When Jarnail came to rescue them, the accused Randhir Singh gave a Takua blow on his front side of head. He also gave one more blow of Takua to Jarnail Singh which hit him on his occipital region. Sarjeant Singh gave one

lathi blow to Jarnail Singh, which hit him on right shoulder. In the meanwhile, PWs Karnail Singh and Karamjeet Singh came to the spot and rescued the complainant and another. The accused then fled away from the spot with respective weapons. The complainant Harbilas Singh and PW Jarnail Singh were taken to Civil Hospital, Ambala City and were medico-legally examined. On receipt of a ruqa from the hospital, SI Jagdish Kumar reached there and recorded the statement of the complainant Harbilas Singh. On the basis of such statement, FIR No. 151 dated 7.12.2003, under Sections 323/326/34 IPC was registered at Police Station Ambala Sadar, against the accused persons. Its copies were sent to the Ld. Area Magistrate and higher police officers. ASI Jagdish Kumar then inspected the place of occurrence and prepared rough site plan thereof. The accused were arrested on 15.12.2003. The weapons used in the commission of the crime in question were recovered from them and were taken into police possession. On completion of investigation, final report under section 173 Cr.P.C was laid before the Ld. Area Magistrate.”

Learned counsel appearing for the petitioners after arguing for some time and realizing the difficulty in convincing the Court has come up with an alternative argument. He submits that the occurrence took place on 7.12.2003. 16 years have elapsed. Parties are closely

related. Petitioners have already undergone more than 6 months sentence. There has been no incident after 2003. Main accused Gurdev Singh has already died. He, hence, submits that keeping in view the fact that the petitioners have already faced protracted trial for a period of 16 years. The sentence be reduced to the period already undergone.

Learned State counsel on the other hand submits that petitioners cannot be granted the benefit of the delay.

Keeping in view the facts of the case and the arguments of the learned counsel for the petitioners, this Court is of the view that since the petitioners are first time offenders, having no previous criminal record, 16 years have already elapsed and there has been no incident thereafter. As per the custody certificate, petitioner No.1 has already undergone total sentence of 6 months 19 days, petitioner No.2 has already undergone total sentence of 6 months 18 days whereas petitioner No.3 has already undergone total sentence of 5 months and 27 days. The petitioners were ordered to be released on bail, on suspension of their sentence vide order dated April 7, 2014. Even after, they were set free, there is no overt act on part of the petitioners against the first informant or its family members. Therefore, the ends of justice would be met if the sentence awarded is reduced to the sentence already undergone by the petitioners.

Ordered accordingly.

Disposed of.

04.12. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No