

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-388-2013 (O&M)

DATE OF DECISION: JULY 2, 2019

RAJU SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. P.K.S. PHOOLKA, ADVOCATE FOR THE PETITIONER.
MR. HITEN NEHRA, ADDL.A.G., PUNJAB.
NONE FOR RESPONDENTS NO.2 & 3.

MANOJ BAJAJ, J.(ORAL)

The petitioner has preferred the revision petition challenging the Appellate Court judgment dated 31.7.2012 passed by the learned Addl. Sessions Judge, Fast Track Court, Bathinda, whereby while confirming the judgement of conviction against respondents No.2 and 3, the order of sentence dated 10.6.2010 passed by the trial Court to undergo imprisonment under various Sections was set aside and they were ordered to be released on probation.

The prosecution arises from case FIR No.87 dated 16.10.2005 under Section 323/34 IPC, Police Station Sadar Bathinda.

The facts leading to the revision petition are noticed below.

Upon a statement given by Raju Singh on 16.10.2005, the above FIR was registered wherein it was alleged that on 14.10.2005 at about 7.30 p.m. he after having his meals went to sleep in the room where new DATS were installed on 14.10.2005. He heard a noise and found that his

mother was calling him asking to come out of the room as somebody was hitting the DATS of newly built room with bricks. He immediately came out of the room and come to the Courtyard. In the meantime, Kaka Singh, Wisakha Singh sons of Gurcharan Singh and Gurcharan Singh son of Hardam Singh Ramdasie, who were his neighbours and were sharing a common wall scaled the same and entered into his courtyard alongwith their respective weapons and started abusing him loudly. On asking the reason for the abuse, Kaka Singh, Wisakha Singh and Gurcharan Singh gave various blows on the head, ear, arm and leg of the Raju Singh with their respective weapons. On raising hue and cry by Raju Singh, his maternal aunt Malkiat Kaur who was residing nearby came there and tried to save him. The accused also gave injuries to Malkiat Kaur. In the meantime, his father Lachhman Singh came at the spot and saved Raju Singh. All the accused ran away from the spot alongwith their respective weapons. It was alleged that the accused had a motive behind the attack as earlier also, some fight ensued between them and the accused were waiting for the opportunity.

After investigation of this case, the final report (challan) under Section 173 Cr.P.C. was submitted before the Court and the learned trial Court after completion of formalities proceeded to frame the charges against the accused persons under Sections 452, 323 read with Section 34 IPC. The accused pleaded not guilty and claimed trial.

To bring home the guilt of the accused persons, the prosecution in all examined 8 witnesses. Thereafter the statements of accused persons were recorded under Section 313 Cr.P.C., wherein explanation offered by

the accused was that they had been falsely implicated as there was a dispute with the complainant regarding the wall.

The trial Court after examining the material on record proceeded to hold accused persons guilty and while imposing sentence, accused Gurcharan Singh was released on probation, whereas accused Kaka Singh and Wasakha Singh were ordered respective sentences to undergo R.I. for 1 year and to pay a fine of ₹500/- and in default of payment of fine, to undergo a further period of 1 month under Section 452 IPC; to undergo R.I. for 6 months and to pay a fine of ₹200/- and in default of payment of fine, to undergo a further period of 15 days under Section 323 IPC and to undergo R.I. for 6 months and to pay a fine of ₹200/- and in default of payment of fine, to undergo a further period of 15 days under Section 323 read with Section 34 IPC. All the sentences were ordered to run concurrently.

Dissatisfied with the judgment of conviction and order of sentence dated 10.06.2010 passed by Judicial Magistrate Ist Class, Bathinda, an appeal was carried by the convicts jointly bearing Appeal No.58A of 2.7.2010, wherein vide judgement dated 31.7.2012 passed by learned Additional Sessions Judge, Fast Track Court, Bathinda, their conviction was maintained, however, they were released on probation.

Learned counsel for the petitioner contends that the appellate Court has wrongly modified the sentence of the accused and released them on probation. It has been contended that the charges against the convicts were duly proved before the trial Court and they were rightly sentenced. No justifiable reason was given by the appellate Court while granting the

convicts the concession of probation.

No one has put in appearance on behalf of respondents No.2 and 3.

A perusal of the case file shows that the occurrence pertains to the year 2005 and almost 14 years have elapsed since the respondents are facing the agony of protracted trial and appeal. Learned counsel for the State has also not disputed that respondents respondents No.2 and 3 have peacefully cleared their probation period.

At this stage, learned counsel for the petitioner submits that the petitioner is ready and willing to leave his challenge qua the order of sentence dated 31.7.2012, passed by the appellate Court releasing respondents No.2 and 3 on probation, if the petitioner is suitably compensated.

In view of the above, while affirming the judgment dated 31.7.2012, passed by the Addl. Sessions Judge, Fast Track Court, Bathinda, it is ordered that respondents No.2 and 3 will compensate the petitioner by paying an amount of ₹25,000/- in total, to be shared by respondents No.2 and 3 equally, within a period of 2 months from the date of this judgement.

With the above direction, the petition stands disposed off.

July 2, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No