

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1153 of 2016(O&M)

DATE OF DECISION: JULY 11, 2019

BACHAN SINGH AND ANOTHER ...PETITIONER

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. AMIT ARORA, ADVOCATE FOR THE PETITIONER.
MR. HITTAN NEHRA, ADDL.A.G., PUNJAB.

MANOJ BAJAJ, J.(ORAL)

The petitioner has preferred the revision petition challenging the Appellate Court judgment dated 11.2.2016 passed by the learned Addl. Sessions Judge, Tarn Taran, whereby the judgment of conviction and order of sentence dated 11.2.2015, passed by the Sub Divisional Judicial Magistrate, Khadur Sahib against the petitioners was upheld.

The prosecution arises from case FIR No.73 dated 11.10.2011 under Sections 323, 324, 34 IPC, Police Station Verwal. Petitioner No.1 Bachan Singh was awarded 1 year rigorous imprisonment along with fine of ₹500/- for the offence punishable under Section 326 IPC and in default of payment of fine, to undergo simple imprisonment for 1 month, whereas Petitioner No.2 was awarded 2 years rigorous imprisonment along with fine of ₹500/- for the offence punishable under Section 326 IPC and in default of payment of fine, to undergo simple imprisonment for 1 month. The convicts were also awarded 6 months rigorous imprisonment for the offences punishable under Sections 323 and 325 IPC each. All the sentences were ordered to run concurrently.

The facts leading to the revision petitions are noticed below.

Upon a statement given by Kuldeep Singh, the above FIR was registered wherein it was alleged that on 7.10.2011 at about 8.00 p.m. after having meals, when he and his father Joginder Singh went to their Guava Garden situated in front of his house, there Kewal Singh armed with sword, Raja armed with stick and Bachan Singh armed with stick came running towards them raising lalkara to teach them a lesson. Bachan Singh gave stick blow on the right side of head of Kuldeep Singh and on receipt of the same, he fell down on the ground. Then Kewal Singh gave a sword blow which hit him on his arm. Raja gave stick blow which hit on his right hand thumb. His father Joginder Singh tried to save himself, but the accused persons pushed his father and he fell down. An alarm was raised 'Mar Ditta Mar Ditta'. After hearing the same, Harpreet Singh came there and the accused persons ran away from the spot alongwith their respective weapons. It was narrated that the motive behind the occurrence was that the accused used to pluck guavas from his garden during night hours and he used to stop them from doing so.

After arrest of the accused, investigation was done and final report under Section 173 Cr.P.C. was submitted before the Court and the learned trial Court, whereupon after completion of formalities proceeded to frame the charges against the accused persons under Sections 326, 325, 323 IPC. The accused pleaded not guilty and claimed trial.

In order to bring home the guilt of the accused persons, the prosecution in all examined 6 witnesses and also adduced documentary evidence. Thereafter the statements of accused persons were recorded under Section 313 Cr.P.C., wherein they denied the charges and pleaded false

implication.

The trial Court after examining the material on record proceeded to hold accused persons guilty and imposed the sentence as notice above. Dissatisfied with the judgment of conviction and order of sentence dated 11.2.2015 passed by Sub Divisional Judicial Magistrate, Khadur Sahib, an appeal was carried by the convicts jointly bearing Appeal No.182 of 27.2.2015 which was dismissed by the learned Additional Sessions Judge, Tarn Taran.

Learned counsel for the petitioners prays that he does not press his challenge to the conviction part in the impugned judgment and confines his prayer only for reduction of sentence of the convicts.

Learned counsel for the petitioners contends that the petitioners are first time offenders and neither there is any case pending against them nor they were previously convicted in any other criminal case. It is contended that the petitioners are facing the agony of trial and appeal for the last 8 years, as the incident pertains to the year 2011. It is submitted that petitioner No.1 Bachan Singh is an old man of more than 70 years of age and has undergone the sentence for more than 4 months, whereas petitioner No.2 Kewal Singh has undergone the sentence for more than 5 months. Therefore, it is prayed that lenient view may be taken against them by extending the benefit of probation or in the alternative their sentence be reduced to the period already undergone by them.

Learned counsel for the State has not disputed the period already undergone by the petitioners as contended by learned counsel for the petitioners. It is also not disputed that there is no other case against any of the petitioners.

After hearing learned counsel for the parties, this Court finds that the petitioners have suffered the agony of trial and appeal for the last almost 8 years, and prior to this occurrence, the petitioners were never embroiled in any other case. It would be relevant to note here that except for this occurrence, there was no incident between the parties, who belong to the same village. The petitioners are father and son respectively. Some leniency deserves to be extended considering the nature of offence, age and other attending circumstances. To prevail peace and harmony between the parties, the ends of justice would be met if the injured are suitably compensated by the convicts and the sentence imposed upon the petitioners-convicts is reduced to the period already undergone by them.

Resultantly, the conviction recorded by the learned trial Court and upheld by the appellate Court is maintained. However, the order of sentence is modified and reduced to the period already undergone by the petitioners and it is ordered that the petitioners will compensate the injured by paying an amount of ₹30,000/- in total, to be shared by the petitioners equally, within a period of 2 months from the date of receipt of certified copy of this judgement, failing which the order of sentence awarded by the trial Court shall remain intact.

Revision petition stands disposed off.

July 11, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No