

CRR No.2369 of 2014 &
CRR No.2318 of 2014

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRR No.2369 of 2014**

DATE OF DECISION: DECEMBER 17, 2019

SANDEEP KUMAR ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

2. **CRR No.2318 of 2014**

JASPAL ...PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. SUNIL PANWAR, ADVOCATE
FOR THE PETITIONER IN CRR NO.2369 OF 2014 &
FOR RESPONDENT NO.2 IN CRR NO.2318 OF 2014.

MR. NISHCHAL MANN, DAG, HARYANA.

MR. ABHISHEK K. PREMI, ADVOCATE
FOR MR. BIJENDER DHANKAR, ADVOCATE
FOR THE COMPLAINANT IN CRR NO.2369 OF 2014 &
FOR THE PETITIONER IN CRR NO.2318 OF 2014.

MANOJ BAJAJ, J.(ORAL)

The above revisions petitions have been filed to challenge the separate Appellate Court judgments dated 22.7.2014, passed by the Addl. Sessions Judge, Ambala, whereby the judgments of conviction dated 16.12.2011 and orders of sentence dated 19.12.2011 passed by the Sub Divisional Judicial Magistrate, Naraingarh in case FIR No.89 of 2.7.2003, Police Station Naraingarh and in a cross-case (Criminal Case No.101 of 2003) were upheld.

CRR No.2369 of 2014 &
CRR No.2318 of 2014

-2-

The prosecution in CRR No.2369 of 2014 arises from case FIR No.89 dated 2.7.2003 under Sections 148/149/323/325/506 IPC, Police Station Naraingarh. The petitioner was convicted and sentenced as under:-

Conviction Under Section	Sentence
323 IPC	To undergo rigorous imprisonment for 6 months.
325 IPC	To undergo rigorous imprisonment for 1 year and to pay of ₹500/- and in default of payment fine, to undergo further simple imprisonment for 1 month.
506 IPC	To undergo rigorous imprisonment for 6 months.

All the sentences were ordered to run concurrently.

Convict Jaspal in CRR No.2318 of 2014 was convicted and sentenced as under:

Conviction Under Section	Sentence
323 IPC	To undergo rigorous imprisonment for 6 months.
324 IPC	To undergo rigorous imprisonment for 1 year and to pay of ₹500/- and in default of payment fine, to undergo further simple imprisonment for 1 month.
506 IPC	To undergo rigorous imprisonment for 6 months.

All the sentences were ordered to run concurrently.

The facts leading to the revision petitions are noticed from CRR No.2369 of 2014, which read as under:-

Upon a statement given by Surja, the above FIR was registered wherein it was alleged that he was an agriculturist having possession of 6 killas of land in village Lalpur in his name as well as in the name of his nephew Jaspal. He got mutated the said land in the name of his nephew Jaspal. On 21.6.2003, at about 12.30 p.m., he and his nephew had gone to plough their fields after hiring a tractor from someone. During ploughing, Sita Ram, Rakam Singh, Barkha Ram and one other boy whose name was

not known came there and started giving danda blows. Sita Ram and Rakam Singh gave lathi blow on his right arm. Thereafter elder son of Sukhbir Singh alongwith 2-3 other persons came there and he gave lathi blow on his left arm and the other persons gave him fist and kick blows. The accused persons also gave lathi blows to Jaspal. The owner of the tractor rescued them from the accused persons. While leaving, the accused abused and threatened them of their life and dire consequences. Thereafter, one Som Singh took them to the hospital.

The accused were arrested and after investigation of the case, 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 accused Barkha Ram, Rakam Singh, Sita Ram, Sandeep Kumar, Ram Rattan and Subhash Chand under Sections 148/323/325/506 IPC. The accused pleaded not guilty and claimed trial.

To bring home the guilt of the accused persons, the prosecution in all examined 7 witnesses. Thereafter the statements of accused persons were recorded under Section 313 Cr.P.C., wherein they denied the allegations and stated that a false case has been foisted upon them. However, documents Ex.D1 to D4 were tendered by them in their defence.

It may be noted here that a cross-case was set up at the instance of Sita Ram by way of a complaint case against Jaspal, Surja, Soma and Gurcharan. However, after examining the preliminary evidence, process was issued against accused Jaspal alone. Later on , he was charged for the offence under Section 323//324/506 IPC, who pleaded not guilty and claimed trial. After completion of the prosecution evidence, statement of the accused under Section 313 Cr.P.C. was recorded, who stated that the

complainant has falsely implicated him. In defence evidence, documents Exs.D1 to D7 were tendered by him.

The trial Court vide separate judgements dated 16.12.2011 convicted both the petitioners in respective cases, whereas the co-accused of convict Sandeep Kumar (petitioner in CRR No.2369 of 2014) were acquitted. Aggrieved against the same, separate appeals bearing Criminal Appeal No.483 of 4.1.2012/2.11.2013 and Criminal Appeal No.494 of 14.1.2012/2.11.2013 were carried by convicts Sandeep Kumar and Jaspal, respectively and the appellate Court vide separate judgements dated 22.7.2014 dismissed both the appeals and upheld the judgement of conviction and order of sentence passed by the trial Court.

Learned counsel for the petitioners after arguing for sometime, do not press their challenge to the conviction part in the impugned judgment and confine their prayer for reduction of sentence alone.

Learned counsel for the petitioners have contended that the convicts are first offenders and were never involved in any other case previously. It is prayed that some leniency be shown to them as they have to support their families. It is prayed that the sentence imposed by the trial Court be reduced to the already undergone as the same would be equally proportionate to the guilt of the petitioners.

Learned counsel for the State has referred to the custody certificate dated 3.4.2019 filed by Vishal Chhibber, Deputy Superintendent, Central Jail, Ambala to contend that petitioner Sandeep Kumar has undergone only a period of 16 days. Similarly, custody certificate dated 19.11.2018 has been filed to contend that petitioner Jaspal has undergone only a period of 14 days pursuant to the impugned judgment of conviction

and order of sentence. It is not disputed that there is no other case against the petitioners.

After hearing learned counsel for the parties, this Court finds that the petitioners have been suffering the agony of trial, appeal etc. for the last more than 16 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. The petitioners are young and have a family to support and therefore, considering the nature of the offences and other attending circumstances, the ends of justice would be met in case the sentence imposed upon the convicts is reduced to the period already undergone by them. However, the petitioners are directed to deposit ₹25,000/- each, as costs with the High Court Legal Services Authority, Chandigarh within a period of 2 months from the date of receipt of certified copy of this order.

Resultantly, both the petitions are partly allowed and the conviction recorded by the trial Court and upheld by the appellate Court is maintained. However, the sentence part is modified as noticed above. The petitioners in both the petitions are on bail and their bail bonds are discharged. It is made clear that if the costs, as imposed is not paid, the sentence part as awarded by the trial Court would remain intact.

December 17, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No