

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2698 of 2016

DATE OF DECISION: NOVEMBER 27, 2019

GURMAIL SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. AMINDER SINGH, ADVOCATE
FOR THE PETITIONER.

MR. K.S. SIDHU, DAG, PUNJAB.

MR. L.S. SEKHON, ADVOCATE
FOR RESPONDENTS NO.2 AND 3.

MANOJ BAJAJ, J.(ORAL)

By way of the present petition, the petitioner has impugned the judgement dated 10.3.2016, passed by the Addl. Sessions Judge, Sangrur whereby the judgement of conviction dated 22.7.2015 under Sections 323, 325, 34 IPC, passed by the Addl. Chief Judicial Magistrate, Sangrur was upheld and the sentence awarded therein was modified and the private respondents were ordered to be released on probation.

It was the case of the prosecution that on 1.7.2012 a telephonic message was received in the police station regarding admission of Gurmel Singh in hospital. HC Bikkar Singh visited the hospital and recorded the statement of Gurmel Singh to the effect that he was an agriculturist and had taken the land of Pritam Singh on lease. On 30.6.2012 at about 9.00 p.m., when he was coming back to his house from his fields and reached near the

motor of Malkit Singh, Jagtar Singh armed with takua, Jagjit Singh armed with stick and Chhota Singh armed with gandasa were standing there. Jagtar Singh exhorted to teach him a lesson for helping Jagar Singh to take the land of Jeet Singh on lease. Thereafter, Jagtar Singh gave him takua blow which hit on the little finger of his foot. Chhota Singh gave gandasa blow on the backside of his leg due to which he fell down and then Jagjit Singh gave stick blow on the person of the complainant. On hearing him screaming, Jaswinder Singh reached there and rescued him. All the accused fled away from the spot and he was taken to Civil Hospital, Sangrur.

On the basis of the aforesaid statement and the medical record, FIR No.93 dated 5.7.2012 under Sections 323, 325 and 34 IPC was registered at Police Station Sadar Sangrur. The accused were arrested, recoveries were made and a final report under Section 173 Cr.P.C. was present before the Court and the accused were charge-sheeted for the offence under Sections 323, 325 and 34 IPC.

The trial Court held the accused guilty for the offences under Sections 323, 325 and 34 IPC and sentenced Chhota Singh and Jagtar Singh to undergo Rigorous Imprisonment for a period of 6 months alongwith fine of ₹500/- and in default thereof, to further undergo rigorous imprisonment for a period of 15 days under Section 323 IPC, to undergo Rigorous Imprisonment for a period of 2 years alongwith fine of ₹1000/- and in default thereof, to further undergo rigorous imprisonment for a period of 2 months under Section 325 read with Section 34 IPC, however, accused Jagjit Singh was sentenced to undergo Rigorous Imprisonment for a period of 2

years alongwith fine of ₹1000/- and in default thereof, to further undergo rigorous imprisonment for a period of 2 months under Section 325 IPC and to undergo Rigorous Imprisonment for a period of 6 months alongwith fine of ₹500/- and in default thereof, to further undergo rigorous imprisonment for a period of 15 days under Section 323 IPC. All the sentences were ordered to run concurrently.

An appeal was carried by the convicts wherein the appellate Court maintained the conviction recorded by the trial Court. However, on the point of quantum of sentence, the appellate Court extended the concession of Probation considering the advanced age of convict Chhota Singh (70 years) and the willingness of the convicts to pay a compensation of ₹10,000/- each to the complainant.

Considering the above, the appellate Court ordered release of Chhota Singh and Jagtar Singh on probation. They were also ordered to pay a compensation to tune of ₹10,000/- each to the complainant.

Learned counsel for the petitioner-complainant has contended that the appellate Court has erred in modifying the order of sentence passed by the trial Court. It has been further contended that all the convicts were already present at the spot with their respective weapons waiting for the complainant, as such the whole occurrence was pre-meditated and they had every intention to harm the complainant. According to him, the sentence awarded by the trial Court deserves to be restored.

Learned counsel for the private respondents submitted that the occurrence is of the year 2012. The respondents are facing the agony of trial

and appeal for the last 7 years. Both the complainant and the private respondents are residents of the same village. The complainant has been suitably compensated by the private respondents and therefore, nothing survives for consideration in the present revision petition, as the period of probation is already over.

After hearing learned counsel for the parties, this Court finds that the appellate Court has considered the nature of injuries and awarded suitable compensation to the victim. The appellate Court has extended the benefit of Probation on sound judicial principles and has struck a balance. The appellate Court extended the concession on 10.3.2016 and admittedly, the period of probation of one year is also over. Nothing has been brought on record to show that the convict-probationers have ever misused such concession. In this view of the matter, this Court does not find any reason to interfere with the judgment passed by the appellate Court.

Resultantly, the revision fails and it stands dismissed.

November 27, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No