

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.657 of 2016

DATE OF DECISION: JANUARY 18, 2019

PARKASH & ANR.

...PETITIONERS

VERSUS

STATE OF HARYANA & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. G.N. MALIK, ADVOCATE FOR THE PETITIONERS.

MR. SUKHDEEP PARMAR, DAG, HARYANA.

MR. KUNAL DAWAR, ADVOCATE
FOR RESPONDENTS NO.2 TO 4.

MANOJ BAJAJ, J.(ORAL)

Petitioners Parkash and Radha Devi widow of Bishan (injured-complainant) have filed the present revision petition challenging the judgment passed by the Addl. Sessions Judge, Palwal dated 11.12.2015, whereby the appellate court while upholding the conviction of accused-respondents No.2 to 4, released them on probation and further directed them to pay a sum of ₹10,000/- each as compensate to injured Bishan Singh and Parkash, out of which ₹25,000/- was to be paid to Bishan Singh and 5000/- to injured Parkash.

The case of the prosecution was based on the statement of Bishan Singh recorded on 01.05.2010, wherein about 7-8 days prior to the date of occurrence, a minor verbal altercation took place between him and the accused. On 30.4.2010 at about 8.00 a.m. when he reached in front of the house of accused persons while returning to his house after getting

boarded his children in the school bus, Shyamu suddenly came out of his house and gave a Farsa blow to him which landed on his head. Accused Hari hit him with an iron rod on his shoulder and accused Tara Chand gave lathi blows on his left hand and waist. When Parkash, brother of the complainant-Bishan Singh tried to save Bishan Singh, Kiran Wati wife of Gaya Lal grappled him from behind and accused Kalua gave lathi blow on his left hand. When the complainant and Parkash raised noise, wife of the complainant, Radha and one Jugal Kishore came to the spot and saved them. The accused while backing out issued threats to kill the complainant.

On the basis of above, FIR No.147 dated 1.5.2010 was registered under Sections 323, 324, 506 read with Section 34 IPC at Police Station Hodal. The accused were arrested. Investigation was carried out and a final report under Section 173 Cr.P.C. against the Shyamu, Kalua, Tarachand and Hari was submitted before the Court and accordingly, charged were framed against them.

Statements of the accused were recorded under Section 313 Cr.P.C. wherein they denied all the allegations and pleaded innocence.

The trial Court after relying upon statement made by the complainant, corroborated by the testimony of the Doctor, PW5 convicted the accused under Section 323, 324 and 506 IPC. The trial Court after considering the physical condition of accused Shyamu, being unable to walk released on probation. However, the other accused were sentenced to undergo S.I. for 6 months and to pay a fine of ₹1000/- each under Section 323 IPC; to undergo S.I. for 6 months and to pay a fine of ₹1000/- each

under Section 324 IPC; and to undergo S.I. for 6 months and to pay a fine of 1000/- each under Section 506 IPC. All the sentences were ordered to run concurrently.

The aforesaid judgement of conviction and order of sentence was challenged in appeal by accused-respondents No.2 to 4, whereby the appellate Court while upholding their conviction, released them on probation for 6 months and also directed them to pay ₹10,000/- each as compensation to injured Bishan Singh and Parkash.

It is against this modification in the order of sentence passed by the appellate Court that the injured-petitioners have come forward with the present revision petition.

Learned counsel for the petitioners contended that the appellate Court after having totally convinced with the order of conviction passed by the trial Court has wrongly modified the sentence awarded to respondents No.2 to 4. It was further contended that respondents No.2 to 4 were the aggressors and attacked petitioner No.1 and Bishan (deceased) for no reason and have been convicted and sentenced by the trial Court, keeping in view the sentence provided for the offences committed.

Learned State counsel has also submitted that it has been proved on record that respondents No.2 to 4 were the aggressors and attacked petitioner Parkash and Bishan Singh (deceased).

Learned counsel for respondents No.2 to 4 submits that the occurrence pertains to the year 2010 and more than 8 years have elapsed since the respondents are facing the agony of protracted trial and appeal. It

has been further submitted that the injuries were not life threatening and respondents No.2 to 4 have also peacefully cleared their probation period. Learned counsel further submits that respondents No.2 to 4 are ready and willing to compensate the petitioners over and above the compensation paid awarded to them by the appellate Court to give a wise burial to the matter.

Learned counsel for the petitioners has accepted the proposal made by learned counsel for the respondents No.2 to 4. This Court also feels that the matter is hanging fire since the year 2010 and ends of justice would be met if the petitioners are suitably compensated for the act of the respondents.

In view of the above, while affirming the judgment passed by the appellate Court, it is ordered that respondents No.2 to 4 will pay ₹30,000/- each to the petitioners (in total ₹90,000/-) as compensation, over and above the compensation awarded by the appellate Court, which will be divided between the petitioners in two equal shares.

Petition stands disposed off.

January 18, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No