

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRR No.1562 of 2017**

DATE OF DECISION: APRIL 29, 2019

JAGSIR SINGH @ JAGSEER SINGH ...PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER ...RESPONDENTS

2. **CRR No.1623 of 2017**

JAGSIR SINGH @ JAGSEER SINGH ...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHER ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. N.K. MANCHANDA, ADVOCATE
FOR THE PETITIONER.

MR. HARSIMAR SINGH SITTA, AAG, PUNJAB.

MR. B.S. BHALLA, ADVOCATE
FOR RESPONDENTS NO.2 IN CRR-1562-2017.
& FOR RESPONDENTS NO.2 TO 6 IN CRR-1623-2017.

MANOJ BAJAJ, J.(ORAL)

This judgement shall dispose off CRR No.1562 of 2017 and CRR No.1623 of 2017 as both the petitions arise out of a common impugned judgement dated 13.02.2017 passed by the learned Sessions Judge, Moga.

Both the petitions have been preferred by the complainant impugning the judgement dated 13.02.2017, passed by learned Sessions Judge, Moga whereby while affirming the judgement of conviction under Section 452 read with Section 149 IPC passed by the Sub Divisional

Judicial Magistrate, Baghapurana, in a complaint case under Sections 323, 324, 452, 148 and 149 IPC, it has modified the sentence part as the accused-private respondents were released on probation.

Briefly the facts of the case are that on 25.5.2009 at about 10.00 p.m., complainant Jagsir Singh alongwith his sister and parents was present in his house. Accused Malkiat Singh who was residing in the adjoining house, alongwith other co-accused was taking liquor on the roof of the house and started abusing the father of the complainant in a loud voice. To avoid any untoward incident, the complainant locked his father in a room, upon which all the accused started pelting stones (Roras) at the house of the complainant. One of the stones pelted by accused Bahadur Singh hit the left eye of the complainant's sister, namely, Sukhjinder Kaur. Then all the accused armed with sticks, hockey, etc. came down and forcibly entered the house of the complainant and gave beatings to the complainant and caused several injuries to him and his sister with respective weapons. Thereafter, all the accused broke open the locked door of the room and searched for father of the complainant Gurcharan Singh. On an alarm raised by the complainant and his mother, all the accused moved back to the house of Malkiat Singh after issuing threats. The complainant and his sister were brought to the hospital by the family members. Police was informed, but no action was taken by the police. Therefore, a complaint to this effect was filed before the competent Court.

After considering the pre-summoning evidence, all the accused were summoned to face trial under Sections 323, 324, 452, 148 and 149

IPC. Charges under the aforesaid Sections were framed to which the accused pleaded not guilty and claimed trial.

After relying upon the statement of the witnesses and the material on record, the trial Court vide its judgement dated 22.3.2016 found all the accused guilty for the offence under Section 452 read with Section 149 IPC and sentenced them to undergo R.I. for 2 years and to pay fine of ₹1000/- and in default of payment of fine, to undergo a further period of S.I. for 15 days.

Aggrieved against the said judgement dated 22.3.2016, the convicts preferred two separate appeals before the Sessions Judge, Moga, who while upholding the conviction of the appellants, modified their sentence by extending the benefit of probation under Section 4(1) of the Probation of Offenders Act, 1958.

Learned counsel for the petitioner contends that the appellate Court has wrongly modified the sentence of the convicts and released them on probation. It has been contended that offence under Section 452 read with Section 149 IPC was duly proved before the trial Court, by establishing the motive also behind the said occurrence as dispute regarding partition of land was going on between the parties. It is contended that the appellate Court has shown leniency and therefore, the sentence awarded to the convicts is disproportionate to their guilt.

Learned counsel for the accused-private respondents submits that the occurrence is of the year 2009 and since then 10 years have elapsed, therefore, the matter may be given a burial. He further submits that the

private respondents had already given up the challenge with regard to conviction part before the appellate Court itself and prayed for leniency on quantum of sentence. Lastly, it has been submitted by the learned counsel for the convicts that in order to bury the hatchet, the convicts are ready to pay a suitable compensation to the complainant.

Learned counsel for the petitioner on instructions from the complainant-petitioner is ready to accept reasonable compensation and close the issue once for all.

In view of the above, it is ordered that the private respondents in both the petitions are directed to compensate the complainant-petitioner by paying ₹30,000/- in total, to be shared by all the convicts equally, within a period of 2 months from the date of receipt of certified copy of this judgement, failing which, the accused shall be liable to undergo R.I. for 6 months.

With the above direction, both the petitions stand disposed off.

April 29, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No