

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3481-2017 (O&M)

DATE OF DECISION: NOVEMBER 27, 2019

RAKESH

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. SANDEEP THAKAN, ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

The petitioner-complainant has impugned the judgement dated 19.4.2017, passed by the Addl. Sessions Judge, Bhiwani whereby while upholding the conviction of private respondents under Sections 147, 148, 323, 325, 341 read with Section 149 IPC in case FIR No.217 dated 5.12.2011, registered at Police Station Loharu, the sentence imposed by the trial Court was modified and the convicts were ordered to be released on probation.

The prosecution in the above FIR was launched on the basis of the statement made by petitioner-Rakesh, who alleged that he was resident of village Dab Dhanni. On dated 17.11.2011, he alongwith his mother Sunita and his aunt (Mausi) Phoolwanti went to village Hazampur to meet his Grandmother (Nani). On 19.11.2011 at about 9.30 a.m., when Karambir son of Rameshwar, resident of village Hazampur, his mother and aunt were taking meals, while his Grandmother was also sitting there, the convict-respondents alongwith other co-accused, armed with their respective

weapons came there and Jagbir gave axe blow on his head; Taro Devi gave pipe blow on his head; Rakesh gave a barchi blow on his hands; Sombir gave a jaily blow on his back and knee. On hearing hue and cry, his cousins Sandeep and Pardeep rescued them from the clutches of the accused. All the accused fled away from the spot. While the injured were being taken to the hospital, the accused persons again blocked their way and obstructed them from going to hospital. A land dispute between Jagbir and his maternal uncle Rameshwar was stated to be the reason for the occurrence.

On the basis of the above statement, FIR was registered and the investigation was carried out. After completion of formalities, the accused were charge-sheeted for the offence under Sections 147, 148, 323, 325 and 341 read with Section 149 IPC. The accused pleaded not guilty and claimed trial.

The trial Court after thorough examination of the witnesses and considering the other material evidence on record, convicted and sentenced accused Jagbir, Ramotar, Manphool, Raj Kumar and Parveen as under:-

Conviction Under Section	Sentence
147 read with Section 149 IPC	To undergo Rigorous Imprisonment for 1 year alongwith fine of Rs.500/- each and in default, to undergo a further rigorous imprisonment for 7 days.
148 read with Section 149 IPC	To undergo Rigorous Imprisonment for 2 years alongwith fine of Rs.500/- each and in default, to undergo a further rigorous imprisonment for 7 days.
323 read with Section 149 IPC	To undergo Rigorous Imprisonment for 6 months alongwith fine of Rs.300/- each and in default, to undergo a further rigorous imprisonment for 4 days.

Conviction Under Section	Sentence
325 read with Section 149 IPC	To undergo Rigorous Imprisonment for 3 years alongwith fine of Rs.1000/- each and in default, to undergo a further rigorous imprisonment for 15 days.
341 read with Section 149 IPC	To undergo Rigorous Imprisonment for 1 month alongwith fine of Rs.100/- each and in default, to undergo a further rigorous imprisonment for 3 days.

All the sentences were ordered to run concurrently.

Though an appeal was carried by the convicts, however, challenge to the conviction was given up and prayer for reduction of sentence was pressed.

The appellate Court after considering the nature of injuries suffered by the injured, age of the convicts and other attending circumstances, modified the sentence passed by the trial Court and released them on probation. The petitioner is dissatisfied with the judgement of appellate Court and hence this revision.

It has been contended by learned counsel for the petitioner that the appellate Court has grossly erred in modifying the sentence awarded to the convicts by the trial Court. He has argued that the case of the prosecution stood completely proved and there was no reason for the appellate Court to interfere with the sentence awarded by the trial Court.

Learned counsel for the petitioner has been heard and I have examined the case file carefully.

A perusal of the impugned judgement passed by the appellate Court shows that the concession of probation was extended to convicts after

taking into consideration the young age of the convicts, their family status and the injuries. The appellate Court has passed the judgement based on sound judicial principles. It may be noticed that both the parties belong to the same village and after release on probation, no occurrence took place between them. This Court is of the opinion that the incident which is subject matter of FIR is 8 years old and the convicts are first offenders and therefore, the appellate Court rightly extended the concession of probation. This Court is not inclined to interfere with the impugned judgement particularly, when three years period of probation is going to be over in few months.

The revision fails and it stands dismissed.

November 27, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No