

S.No.225

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No.1983 of 2018 (O&M)

Date of Decision:31.01.2019

Darshan Singh and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ram Pal Verma, Advocate for
Mr. Inderjit Sharma, Advocate for
the petitioners.
Mr. Rajat Bansal, AAG, Punjab.

Rajbir Sehrawat, J.(Oral)

This is a petition challenging the judgment/ order dated 21.05.2018 passed by Additional Sessions Judge, Bathinda whereby the judgment and order dated 24.05.2016 passed by Judicial Magistrate Ist Class, Bathinda, in case of FIR No.179 dated 30.12.2013 registered under Sections 324, 34 IPC at Police Station Nathana, whereby the petitioners were convicted under Section 324 IPC and were sentenced with rigorous imprisonment for a period of one year along with fine, was upheld.

At the stage of notice of motion, counsel for the petitioners had submitted that since the petitioners had already undergone a substantial part of the sentence, therefore, he had the instructions to restrict the revision qua sentence awarded to the petitioners only. Accordingly, notice of motion was issued vide order dated 02.07.2018 qua sentence awarded to the petitioners only.

Pursuant to the notice, learned State Counsel has produced the custody certificate of the petitioners. The custody certificate shows that the petitioner No.1 - Darshan Singh has undergone actual sentence of 7 months

and 25 days as on 17.01.2019. He has also earned remissions of 1 month and 28 days. Accordingly, after deducting the parole, the petitioner-Darshan Singh has undergone 8 months and 11 days of sentence, out of the total sentence of one year. Likewise, petitioner No.2 - Boota Singh has also undergone actual sentence of 7 months and 25 days. He has also earned the remissions of 1 month and 28 days. Accordingly, after deducting the parole, he has also undergone total sentence of 8 months and 11 days out of the total sentence of one year.

The brief facts giving rise to the present petition are that the above said FIR was registered at the instance of Gurmail Kaur, who was allegedly injured in the incident. It was alleged in the FIR that on 26.12.2013, the petitioners were lifting the wheat chuffs when a thread of kite got entangled in the feet of petitioner - Boota Singh. Due to this, the petitioner - Boota Singh started abusing the son of the complainant. This resulted into a fight between the parties in which Gurmail Kaur was injured. The prosecution led the evidence; including examination of the injured witness. Finding the case against the petitioners substantiated, the trial Court convicted and sentenced the petitioners as mentioned above.

Aggrieved against the judgment of conviction and order of sentence, the petitioners preferred an appeal before the Lower Appellate Court. However, that appeal was also dismissed. Resultantly, the present petition has been filed by the petitioners.

As mentioned above, the notice was issued only qua reduction of sentence. To substantiate the submissions regarding reduction in

sentence, counsel for the petitioners has submitted that the petitioner No.1 - Darshan Singh is suffering from ailments and he is an old person. The petitioner No.2 – Boota Singh is in the middle of his age, he is having two minor children, therefore, he is deep down in the responsibilities of the family life. Still further, it submitted by the counsel that the factual situation alleged in the FIR would show that the fight had just erupted without there being a specific intention to cause injuries to the injured. It is also submitted that the petitioners have already undergone a substantial part of sentence. They have shown their tendency to reform themselves, while they were in custody. Therefore, sentence awarded to the petitioners be reduced to the period of sentence already undergone by them.

On the other hand, learned counsel for the State, has submitted that the Courts below have already shown leniency while awarding sentence to the petitioners. It is further contended that minimum sentence has been awarded to the petitioners. Therefore, reduction in sentence of the petitioners is not justified.

Having heard learned counsel for the parties and perusing the record, this Court finds that the petitioners have already undergone more than eight months of sentence out of one year. The facts alleged in the FIR are also such which would indicate that the injuries, even though caused by the petitioners, as held by the Courts below, have arisen due to sudden disputes arising between the parties. Although this Court is not dealing with the merits of the case, however, the factual situation; in which the dispute had arisen, can be considered even for the purpose of awarding

sentence to the accused. Therefore, this factor also goes in favour of the petitioners. Furthermore, the custody certificate placed on record by the State also show that the petitioners have maintained absolute good behaviour even during the custody. This fact is verified by the fact that both the petitioners have earned remissions of about two months; in a short duration of about seven months of custody. Therefore, the petitioners have sufficiently shown the tendency to reform themselves and to join the mainstream of the life.

In view of the above situation, it would not be unjustified if the sentence awarded to the petitioners is reduced to the period of sentence already undergone by them.

Accordingly, the present petition is partly allowed. While the petition is dismissed qua conviction of the petitioners, the sentence awarded to the petitioners is reduced to the period of sentence already undergone by them.

Let the petitioners be released from the custody forthwith, in case they are not required in connection with any other case.

January 31, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No