

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

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CRR-269-2018 (O & M)
Date of Decision:26.02.2019

Kartar and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Jai Bhagwan Sharma, Advocate
for the petitioners.

Mr. Anmol Malik, AAG, Haryana.

MANOJ BAJAJ, J.

Petitioners, namely, Kartar, Rajiv and Sanjiv have filed the present revision petition against the impugned judgment and order dated 18.01.2016 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Faridabad whereby the petitioners have been convicted for the commission of various offences and sentenced them for a period of three years; and judgment dated 10.01.2018 (Annexure P-1) passed by the learned Additional Sessions Judge, Faridabad vide which conviction awarded by the learned JMIC is maintained whereas the order on quantum of sentence awarded by the learned JMIC is modified by reducing it from three years to one year simple imprisonment. All the sentences were ordered to run concurrently.

The case of the prosecution is that on 12.10.2012 complainant Sant Lal moved a written complaint before the police to the effect that on 09.10.2012 at about 8.00 pm, while he was on his duty, his daughter who was at home was installing light at the roof of her house. At that time, his

neighbour Rajiv son of Hira Lal in drunken condition came at the roof and started misbehaving with his daughter namely Manju. When his daughter Manju objected this, Rajiv gave beatings to her. On hearing the noise, wife of the complainant namely Sona and his elder daughter namely Anju also came at the roof and tried to rescue Manju. Both brother of the accused Rajiv namely Sanjeev and Kartar also came at the roof and attacked upon the complainant party with lathis, dandas and iron rods, due to which wife and children of the complainant sustained various injuries on their person and they became unconscious and taking the advantage of their unconsciousness, they also removed the gold and silver ornaments as well as cash amount of wife and daughters of complainant.

After completion of investigation, Challan was presented in the Court. The copies of Challan as envisaged under Section 207 Cr.PC were supplied to the accused free of costs. On finding a prima-facie case, the accused were charge sheeted for the commission of offences punishable under Sections 323, 325, 452, 294 and 506 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 18.01.2016 convicted the petitioners and sentenced the petitioners as stated supra.

Feeling aggrieved, the petitioners preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 10.01.2018 passed by learned Additional Sessions Judge, Faridabad, the appeal qua the conviction is maintained whereas the order of sentence is modified by reducing the sentence from three years to one year. It is in the aforesaid circumstances, the petitioners

have filed the present revision petition.

At the outset, learned counsel for the petitioners submits that without challenging the conviction of the petitioners, he confines his prayer for reduction in quantum of sentence awarded to the petitioners. He further contends that it happened all of a sudden and there was no previous enmity between the petitioners and the complainant party. He has further contended that the petitioners are first time offenders and there is no other criminal case pending against them. They have been suffering the agony of criminal proceedings since the date when the FIR in question was registered against them. Thus, he has prayed that the sentence of the petitioners may be reduced to the period already undergone by them.

Learned State counsel, on the other hand, has opposed any leniency to be shown towards the petitioners. However, he states that under the influence of liquor, Rajiv (petitioner No.2) misbehaved with Manju, daughter of the complainant. He further states that the petitioners attacked the complainant party with lathis, dandas and iron rods, due to which wife and children of the complainant sustained various injuries on their person.

I have heard learned counsel for the parties and have gone through the case file.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty. The appellate Court has also maintained the judgment of conviction whereas the order on quantum of sentence has been modified by reducing the sentence from three years to one year simple imprisonment. There is no illegality or perversity in the findings given by both the Courts below which may warrant

interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of petitioners, namely, Kartar, Rajiv and Sanjiv is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, admittedly, petitioners Kartar, Rajiv and Sanjiv have already undergone imprisonment for more than two months. They are the first time offenders and no other case is pending against them. They have been facing the agony of criminal proceedings since the date when the FIR in question was registered against them. Therefore, taking into account the protracted trial, antecedents of the petitioners as well as the period of their incarceration, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of compensation of Rs.45,000/- (Rs.15,000/- each) to the complainant, as envisaged under Section 357 Cr.P.C.

Ordered accordingly.

With aforesaid modification in the order of sentence, the present revision petition is disposed off.

26.02.2019
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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No