

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRR-3750-2018**

DATE OF DECISION: JANUARY 30, 2019

MEHAR CHAND & OTHERS ...PETITIONERS

VERSUS

STATE OF HARYANA ...RESPONDENT

2. **CRR-3902-2018**

TEJ RAM & OTHERS ...PETITIONERS

VERSUS

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. TAPAN YADAV, ADVOCATE FOR THE PETITIONERS.
MR. ANMOL MALIK, AAG, HARYANA.
MR. ASHISH YADAV, ADVOCATE FOR THE COMPLAINANT.

MANOJ BAJAJ, J.

Both the revision petitions arise out of the impugned judgement of conviction and order of sentence dated 1.10.2016 passed by the Chief Judicial Magistrate, Rewari and the judgement dated 25.10.2018, passed by the Addl. Sessions Judge, Rewari affirming the conviction and sentence awarded to the petitioners as under:-

Under Section	Sentence
148/149 IPC	RI for 3 months to each accused
323/149 IPC	RI for 3 months to each accused
325/149 IPC	RI for 1 year to each accused
506/149 IPC	RI for 3 months to each accused

All the sentences were ordered to run concurrently.

Briefly the facts leading to the case of the prosecution are that on 9.4.2010, HC Mahender Singh received a message on telephone that the complainant alongwith other persons are admitted in Civil Hospital, Bawal on account of receipt of injuries. HC Mahender Singh alongwith other police officials proceeded to the hospital and got recorded the statement of Tufan Singh wherein he stated that on 9.4.2010, when he alongwith other persons (injured) reached near the village in the fields, they saw that the accused-petitioners were putting bricks in the fields, whereas case of partition was pending in Court. His family members raised their objection to the same. Accused Tej Ram gave a lathi blow to Braham Parkash and when the complainant alongwith other persons tried to rescue Braham Parkash, accused Tika Ram gave lathi blow on the thigh of the complainant. Accused Suman gave a lathi blow on his left hand. Accused Krishna gave a lathi blow to his left hip. Accused Ramphal gave an iron rod blow on his head. Injuries were also inflicted to the other members of the complainant party and thereafter, the accused-petitioners fled away alongwith their weapons. They were taken to the hospital after arranging a vehicle and were medico-legally examined. On the basis of the above statement FIR No.67 dated 14.6.2010 under Sections 148/149/323/325/506 IPC was registered at Police Station Kasola, Rewari.

Statements of witnesses were recorded. The accused were arrested. Final report under Section 173 Cr.P.C. was submitted and the accused were charge-sheeted for the offence under Section 148/323/325/506/149 IPC to which they pleaded not guilty and claimed

trial.

In order to prove its case, the prosecution examined as many as 11 witnesses. Statements of accused under Section 313 Cr.P.C. were recorded to which they denied the allegations and pleaded false implication.

The trial Court after relying upon the evidence led by the prosecution and medical evidence available on record convicted and sentenced the accused-petitioner and one Subhash Chander as stated above and also ordered the convicts to pay a compensation of 6000/- each to be paid to all the injured in equal shares.

The judgement of conviction and order of sentence was challenged by the petitioners and said Subhash Chander by filing an appeal and the appellate Court while allowing the appeal filed by Subhash Chander, dismissed the appeal filed by the petitioners.

It is against those impugned judgements that the petitioners have preferred the present revision petitions.

Learned counsel appearing on behalf of the petitioners has contended that he does not press challenge to the conviction part of the impugned judgement and restricts his prayer only to the sentence part.

Learned counsel for the petitioners contended that as per the custody certificate, the petitioners, except Gyana Devi and Krishna Devi have undergone more than 3 months out of the maximum awarded sentenced of 1 year. It was further contended that the occurrence in this case had taken place on 9.4.2010 and for the last about 9 years the petitioners are facing the agony of trial and appeal. Learned counsel for the

petitioners further submits that to bury the hatchet, the petitioners are ready and willing to compensate the complainant and other injured persons for the act of theirs by paying a compensation of ₹20,000/- each, over and above the compensation awarded by the trial Court and they may be sentenced to the period already undergone by them.

Learned State counsel, on the other hand, opposed the prayer made the learned counsel for the petitioners.

However, learned counsel for the complainant has agreed to the proposal made by learned counsel for the petitioners.

Considering the aforesaid, this Court is of the opinion that as the petitioners are not habitual offenders; have suffered the ordeal of protracted trial and appeal for the last 8 years; are not previous convicts and no other case is pending against them, therefore, no useful purpose would be served by sending the petitioners in custody for serving the remaining portion of their sentence and ends of justice would be met, if the complainant and the other injured persons be suitably compensated by the petitioners and the sentence of the petitioners is reduced to the one already undergone by them.

In view of the above, while upholding the conviction and reducing the sentence of the petitioners to the one already undergone by them, it is ordered that the petitioners will pay ₹20,000/- each to the complainant and other injured persons, over and above the compensation awarded by the trial Court, to be divided in equal shares by the complainant and other injured persons.

With the above modification in the order of sentence, both the revision petitions stand disposed off.

January 30, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No