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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**1. CRR-7-2018 (O&M)
Date of Decision : January 28, 2019**

Baljinder Singh and another Petitioners

Versus

State of Punjab ... Respondent

2. CRR-8-2018 (O&M)-

Makhan Singh Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by: Mr. J.S. Grewal, Advocate
for the petitioners in CRR No. 7 of 2018.

Mr. Pradeep Panwar, Advocate,
for the petitioner in CRR No. 8 of 2018

Mr. Ashok Kumar Singla, Sr. Deputy
Advocate General, Punjab.

SHEKHER DHAWAN, J.

The above titled two revision petitions are directed against the common judgment dated 17.11.2017 passed by learned Additional Sessions Judge, Rupnagar, whereby the appeal preferred by the present petitioners against the judgment of conviction and order of sentence dated

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11.03.2014 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib, was dismissed. Therefore, both the above titled revision petitions are being disposed of by this common order.

2. All the petitioners were convicted for commission of offence under Section 382 of the Indian Penal Code (for short, 'IPC') vide judgment dated 11.3.2014 and were sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for 15 days, in case bearing F.I.R. No.43 dated 06.09.2005 registered under Section 382 IPC at Police Station Nurpur Bedi.

3. Facts relevant for the purpose of decision of the present revision petition; that on 6.9.2005, police party was on patrolling duty and complainant Gulshan Lal reported the matter to the Police that on 4.9.2005, he alongwith his wife, Reena Rani were coming back and when they reached near the forest of Bhaddi area, four unidentified persons, out of which three were clean shaven and one Sikh, were armed with weapons and stopped them and directed the complainant and his wife to hand over all the valuable articles. On this, they took away one gold necklace weighing 22 gms, four gold rings weighing 16 gm, two gold bangles weighing 30 gms. mobile phone of his wife Reena Rani and one gold bracelet weighing 35 gms. All the accused were armed with small *kirpans* and as such the complainant and his wife did not raise any hue and cry and all the accused persons ran away from the spot.

4. After completion of investigation proceedings, challan was presented before the trial Court.

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5. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (petitioners herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, learned trial Court held the petitioner guilty for commission of offence under Section 382 IPC and convicted and sentenced them vide judgment and conviction and order of sentence dated 11.03.2014.

6. The appeal preferred by the present petitioners against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Rupnagar vide judgment dated 17.11.2017.

7. At the time of arguments, learned counsel for the petitioners contended that he does not challenge the judgment of conviction recorded by learned trial Court and judgment of learned Additional Sessions Judge while dismissing the appeal on merits. Otherwise, learned trial Judge has already taken into consideration the statements of complainant, Gulshan Lal (PW-3) and eye-witness, Reena Rani (PW-2) and other police officials including Investigating Officer (PW-6) of the case. The complainant and the eye-witness, who are victims of this case, have deposed against the accused facing trial and identified them in the Court. These witnesses were cross-examination at length, but nothing had come in the cross-examination on the basis of which their testimony could be discarded. Otherwise, against the prosecution evidence, the defence version is just a plea of denial and learned trial Judge has rightly relied upon the testimony of witnesses and eye-witness and convicted and sentenced them under

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Section 382 IPC and the judgment of conviction recorded by learned trial Judge, which has already been affirmed by learned Additional Sessions Judge in appeal proceedings, does not call for any interference and the revision petition qua judgment of conviction stands dismissed.

8. As regards, the revision against the order of sentence, learned counsel for the petitioners contended that all the petitioners are not previous convicts and there is no other case pending against them. They have already undergone actual sentence of about 1 year and 6 months. So, their order of sentence be modified.

9. Learned State counsel while opposing the same contended that taking into consideration the nature of offence having been committed by the petitioners no case is made out for interference in the order of sentence even and the present revision petition be dismissed.

10. Having considered the above facts that the petitioners have been convicted and sentenced under Section 382 IPC for two years and against that convicts, Baljinder Singh and Daljit Singh (Petitioners in CRR-7-2018) have already undergone actual sentence of 01 year, 6 months and 15 days and 01 year, 5 months and 27 days(including remissions) as per the custody certificates dated 24th and 25th January, 2019 respectively and Makhan Singh (Petitioner in CRR-8-2018) has already undergone actual sentence of 01 year, 5 months (including remissions) as per the custody certificate dated 24th January, 2019 and there being no other case against the present petitioners, taking a lenient view on the point of sentence, the order of sentence is modified to the extent that the sentence of petitioner, Malkiat Singh in this case shall be reduced to the period they have already

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spent while remaining in custody during the period of trial, appeal proceedings and this revision petition. The petitioners be released from custody in this case, if not required in any other case.

11. Resultantly, the present revision petition stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

January 28, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes