

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

DATE OF DECISION: 28.02.2019.

1. CRR-2729-2018

Jabar and others

...Petitioners.

Versus

State of Punjab

...Respondent.

AND

2. CRR-3004 of 2018

Babu and others

...Petitioners.

Versus

State of Punjab

...Respondent.

CORAM: HON'BLE MR. JUSTICE (DR.) SHEKHER DHAWAN

Present: Mr. Anil Kumar Garg, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, Assistant Advocate General, Punjab.

SHEKHER DHAWAN, J.

Today the case is fixed for arguments on suspension of sentence. Learned counsel for the petitioners contended that the petitioners have been undergone actual sentence of 08 months and 19 days and the present petition filed by the petitioners be taken up for arguments because the petitioners does not challenge the judgment of conviction rather argue on the point of order of sentence only. As such, the main revision petitions are taken up board today.

These two revision petitions bearing Nos.CRR-2729 and 3004 of 2018 are directed against the common judgment of conviction dated and order of sentence dated 23.02.2017 passed by learned Judicial Magistrate Ist Class, Rupnagar and appeal having been decided on 03.08.2018 by learned Sessions Judge, Rupnagar, whereby judgment of conviction was upheld however, sentenced was modified as under:-

Name	Under Section	Sentence	In default
1.Jabar 2. Banne 3. Nanne 4. Babu 5. Shammi 6. Ashiq 7. Adil 8. Jamil	Section 148 IPC	to undergo rigorous imprisonment for a period of six months each and to pay a fine of Rs.500/- each.	R.I for 15 days.
	Section 452 IPC	to undergo rigorous imprisonment for a period of one and half year each and to pay of fine of Rs.500/- each.	R.I. For 15 days
	Section 323 IPC	to undergo rigorous imprisonment for a period of six months each and to pay of fine of Rs.500/- each.	R.I. For 15 days
	Section 323/149 IPC	to undergo rigorous imprisonment for a period of six months each and to pay of fine of Rs.500/- each.	R.I. For 15 days

Therefore, both the above mentioned revisions are being disposed of by this common judgment.

Learned counsel for the petitioners contended that the petitioners does not challenge the judgment of conviction, otherwise also as per record judgment of conviction is based upon statement of injured

witnesses duly supported and corroborated by medical evidence and as such, the revision against judgment of conviction stand dismissed.

As regard to order of sentence substantive sentence awarded by learned trial Judge and order having been modified by learned Sessions Judge. The petitioners have been ordered to undergo one and a half year under Section 452 IPC and to pay a fine of Rs.500/-. Fine amount has already been paid by the petitioners before learned trial Judge.

Learned counsel for the petitioners contended that the petitioners have already undergone actual sentence of 08 months and 19 days and they are not previous convicts. Learned counsel for the petitioners requested that order of sentence be modified to the extent that the sentence of the present petitioners be reduced to the period already undergone by them during investigation, trial and after conviction.

Learned State counsel contended that both the Courts below have already taken a lenient view in the sentence and there is no scope of further leniency on the point of sentence and both the revision petitions deserve to be dismissed.

Having considered the submissions made by learned counsel for the parties on the point of sentence, this Court is of the considered view that the none of the petitioners are previous convict as per custody certificate. By now, they have undergone actual sentence of 08 months and 19 days. Learned trial Judge as well as learned Sessions Judge has not considered and given due weightage to the fact that the petitioners are not previous convict. As such, the order of sentence is modified to the extent that the sentence awarded to petitioners is reduced to the period already undergone by them while remaining in custody in this case. The petitioners

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be released from custody in this case, if not required in any other case.

Resultantly, both the revision petitions are disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

28.02.2019.
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Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No