

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

CRR-3666-2018 (O&M)

Date of Decision: 24.01.2020

Jagtar Singh & Ors

... Petitioners

vs.

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.B.S.Aulakh, Advocate
for the petitioners.

Mr. Rajesh Bhardwaj, Sr. Deputy Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

CRM-38976-2018

For the reasons stated in the application, delay of 15 days in filing the present revision petition is hereby condoned.

Application is allowed.

CRR-3666-2018 (O&M)

1. The present revision has been preferred against the judgment of conviction and order of sentence dated 22.11.2016 passed by learned Judicial Magistrate 1st Class, Bathinda and judgment dated 17.07.2018 passed by learned Sessions Judge, Bathinda, vide which the appeal filed by the appellants against the judgment dated 22.11.2016, was dismissed.

2. Briefly, as per the allegations of the prosecution, on 21.09.2009, the complainant alongwith his mother Jaswinder Kaur, brother Raja Singh and Gursewak Singh had consumed their meals and were present in the house. At about 12:15 A.M., the complainant heard a noise and woke up. He saw Tara Singh armed with kirpan; Pala Singh and Deep Singh

armed with gandasas and Kalu Singh armed with iron rod present at the spot.

Tara Singh exhorted the co-accused and inflicted two kirpan blows on the forehead and the right shoulder of the complainant from reverse side. Pala Singh inflicted two gandasas blows on the back of the complainant from reverse side. Deep Singh inflicted two gandasas blows which hit on the right leg and knee of the complainant. An alarm was raised. Raja Singh was attracted at the spot to rescue the complainant and injuries were also inflicted upon him. Complainant and Raja Singh came to the courtyard where Gursewak Singh and Jaswinder Kaur were lying and they also woke up on hearing the noise. The accused followed them in the courtyard. Gursewak Singh and Jaswinder Kaur tried to intervene and accused persons inflicted injuries on person of Gursewak Singh and Jaswinder Kaur also. The complainant and other persons raised alarm and all the assailants slipped away from the spot alongwith the weapons. In this background, FIR No. 106 dated 22.09.2009 was registered at Police Station Sangat.

3. On conclusion of investigation, challan was presented in the Court. A prima facie case under Sections 452/325/323 IPC read with Section 34 IPC was made out against the petitioners-accused, to which they pleaded not guilty and claimed trial.

4. The prosecution has examined seven witnesses i.e. Gursweak Singh (PW1), Gural Singh (PW2), Raja Singh (PW3), Jaswinder Kaur (PW4), Dr. H.S.Hayer (PW5), HC Gursahib Singh (PW6) and ASI Baltej Singh (PW7).

5. The statements of accused under Section 313 Cr.P.C. were recorded but no defence evidence has been led by them.

6. During the course of proceedings, accused-Kalu Singh had died and proceedings against him stood abated.

7. Vide judgment of conviction and order of sentence dated 22.11.2016, the petitioners-accused were convicted under Sections 452/325/323 read with Section 34 IPC and were sentenced as follows:-

<i>Name of convicts</i>	<i>Offence</i>	<i>Sentence</i>	<i>Fine</i>
Jagtar Singh	452 IPC	RI for two years	Rs.500/- and In default of payment of fine to undergo RI for one month
	325 IPC	RI for two years	Rs.500/-. In default of payment of fine to undergo RI for one month
	323 IPC	RI for one year	NIL
Pal Singh	452 IPC	RI for two years	Rs.500/- and In default of payment of fine to undergo RI for one month
	325 IPC	RI for two years	Rs.500/-. In default of payment of fine to undergo RI for one month
	323 IPC	RI for one year	NIL
Deep Singh	452 IPC	RI for two years	Rs.500/- and In default of payment of fine to undergo RI for one month
	325 read with section 34 IPC	RI for two years	Rs.500/-. In default of payment of fine to undergo RI for one month
	323 IPC	RI for one year	NIL

8. The petitioners had preferred an appeal before the learned Additional Sessions Judge, Bathinda and the same was also dismissed vide judgment dated 17.07.2018.

9. Aggrieved by the judgments of the Courts below, the present revision has been preferred by the petitioner.

10. During the course of hearing, learned counsel for the petitioners has not disputed the findings of the Courts below recorded with respect to the conviction and has only prayed for leniency in the matter of sentence.

11. The findings of conviction have been recorded on the basis of deposition of complainant-Gurpal Singh. The eye witness count given by him is supported by the deposition of Gursewak Singh (PW1), Raja Singh (PW3) and Jaswinder Kaur (PW4). Besides, the ocular version is also corroborated by the deposition of Dr. H.S.Hayer, who has proved the medico legal reports pertaining to the injured.

12. In these circumstances, the judgment of conviction has been correctly recorded on the basis of sufficient and reliable evidence which proved and established the guilt of the petitioners-accused beyond shadow of reasonable doubt. The appeal has been correctly dismissed and findings of conviction are affirmed.

13. With regard to quantum of sentence, all the sentences were ordered to run concurrently and the petitioners have to undergo rigorous imprisonment for a period of two years.

14. Custody certificates have been placed on record by learned State counsel which indicate that petitioners Pal Singh and Deep Singh have undergone actual imprisonment for a period of 01 year, 03 months and 27 days and after earning remission total sentence comes to 01 year, 09 months and 07 days, whereas, petitioner-Jagtar Singh has undergone actual imprisonment for period of 01 year, 06 months and 12 days and after earning remission, his total sentence comes to 01 year, 11 months and 22 days.

15. The petitioners have already undergone substantial sentence out of the sentence imposed upon them by the Courts below. It has been stated on behalf of the petitioners that they are poor persons and have faced the agony of protracted trial for the last more than 10 years.

16. Learned counsel for the petitioners has made a submission that the sentence imposed upon the petitioners may be reduced to the period already undergone by them.

17. In the instant case, the petitioners have undergone imprisonment including remission for a period exceeding 01 year and 09 months and are facing the criminal proceedings for a period of more than a decade.

18. In these set of circumstances, the ends of justice will meet if the petitioners are sentenced to undergo imprisonment for the period they have already undergone. However, there shall be no alteration with regard to the amount of fine and default sentence imposed upon the petitioners in consequence of non-payment of fine. Accordingly, the petitioners are sentenced to undergo imprisonment for the period already undergone by them.

19. With the aforesaid partial modification in the quantum of sentence, the petition is dismissed. The petitioners are in judicial custody and they be released forthwith, if not involved in any other case and furthermore, if they have deposited the amount of fine.

24.01.2020
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No