

***CRR-2277-2019 and
CRR-2280-2019***

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:07.02.2020

1. CRR-2277-2019

Surinder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

AND

2. CRR-2280-2019

Surjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Simranjit Singh, Advocate,
for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

HARNARESH SINGH GILL, J.

Custody certificates by way of affidavit of Sh. Narpinder Singh, PPS, Deputy Superintendent Central Jail, Kapurthala, have been filed in the Court. The same are taken on record.

Both the above mentioned revision petitions are taken up together as the same have arisen out of the one and same FIR.

Challenge in both the revision petitions is to the judgment dated

15.07.2019 passed by the learned Additional Sessions Judge, Kapurthala,
PARVEEN KUMAR 2020.02.07 18:29
I attest to the accuracy and integrity of this document

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whereby while dismissing the appeal filed by the petitioners, the judgment of conviction and order of sentence dated 15.05.2015 passed by the learned Judicial Magistrate Ist Class, Kapurthala, in FIR No.82 dated 13.10.2011, under Sections 326, 323 and 34 IPC, registered at Police Station Bholath, District Kapurthala, have been upheld.

The petitioners were tried for committing the offences under Sections 326, 323 and 34 IPC. As per the prosecution version, on 16.08.2011 at about 10.00 P.M., when complainant-Satwant Kaur was present outside her house, Surjit Singh s/o Sharam Singh (petitioner in CRR-2280-2019), who was armed with *dattar*, his wife-Surinder Kaur (petitioner in CRR-2277-2019), who was armed with stick, mother-in-law of Surjit Singh, who was empty handed, had come out from their house. Mother-in-law of Surjit Singh had raised *lalkara* to caught hold of the complainant and not to spare her and teach a lesson for levelling allegations regarding the murder of Kulwinder Singh (son of the complainant). Surjit Singh had given a *dattar* blow on the right hand of complainant, Surinder Kaur and Veer Kaur had caught hold of her from her hair. Surjit Singh had again given *dattar* blow on the left leg of the complainant. Malkiat Singh, husband of complainant, had come forward to rescue her, but all the accused had given fist blows to him. Then all the accused had gone to their house. The complainant had been admitted to Civil Hospital, Bholath, by her husband. On the basis of statement of complainant, FIR in this case was registered.

On the basis of the evidence led, it stood proved before the

learned trial Court that the petitioners-accused alongwith co-accused had

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shared common intention and in furtherance of the said common intention, they had voluntarily caused hurt to Satwant Kaur. Consequently, the petitioners alongwith co-accused were convicted under Sections 326 and 323 read with Section 34 IPC. They were, accordingly, sentenced to undergo as under:

Accused	Offence	Sentence
Surjit Singh and Surinder Kaur	U/S 326 read with Section 34 IPC	To undergo imprisonment for a period of one year and to pay a fine of Rs.1,000/- each and in default of payment of fine, to undergo further simple imprisonment for ten days.
	U/S 323 read with Section 34 IPC	To undergo imprisonment for a period of six months and to pay a fine of Rs.500/- each and in default of payment of fine, to undergo further simple imprisonment for five days.

Both the sentences have been ordered to run concurrently.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioners preferred appeal before the learned Additional Sessions Judge, Kapurthala. However, vide impugned judgment dated 15.07.2019 passed by the learned Additional Sessions Judge, Kapurthala, the appeal had been dismissed, thereby affirming the judgment and order passed by the learned trial Court.

Still aggrieved, the petitioners have preferred the present revision petitions.

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

Both the courts below after having scrutinized the evidence on record, have rightly convicted the petitioners for the offences under

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petitioners could not point out any perversity or illegality in the findings recorded by the courts below nor could it be disputed by the learned counsel that the complainant-injured had received grievous as well as simple injuries with sharp and blunt weapon, respectively, at the hands of the petitioners. Thus, in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioners under Sections 326 and 323 read with Section 34 IPC is upheld.

Faced with this situation, learned counsel for the petitioners confines his prayer to the sentence part. He submits that the occurrence in this case took place on 16.08.2011; that the petitioners are first time offenders; that they have been in custody since the date of dismissal of appeal and that by now, they have undergone 08 months and 19 days each, including remissions, out of the total sentence of 01 year. Thus, it is prayed that the sentence imposed upon the petitioners may be reduced to the period already undergone by them. In support of his contentions, he relies upon Ram Chand Vs. State of Punjab 1989(2) R.C.R.(Criminal) 221, Tara Singh Vs. State of Punjab 1994(1) R.C.R. (Criminal) 457 and Om Parkash alias Parkash Vs. State of Haryana 2003(3) R.C.R. (Criminal) 766.

On the other hand, the learned State counsel while opposing the prayer of the learned counsel for the petitioners, states that both the courts below have taken a very lenient view, when a sentence of one year each was imposed upon the petitioners. He further states that even on the sentence count, the petitioners do not deserve any indulgence by this Court.

Keeping in view the nature of injuries and circumstances of the

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case coupled with the facts that the petitioners are first offenders; that their previous conviction is neither alleged nor proved by the prosecution and they have undergone the sentence of 08 months and 19 days each, including remissions, this Court is of the view that no useful purpose would be served by keeping the petitioners behind the bars. It is a fit case wherein sentence awarded to the petitioners can be reduced to the period already undergone and in lieu thereof, they can be burdened to pay more fine.

The view taken by this Court also finds support from the judgment rendered by this Court in Om Parkash alias Parkash(supra), wherein it is has been held as under:

"4. Therefore, while maintaining the conviction it is ordered that the sentence already undergone would meet the ends of justice. The order imposing fine is, however, set aside for the reason that it would be in the interest of justice to award compensation to the victim in accordance with the provisions of Section [357\(3\)](#) Criminal Procedure Code, 1973 which reads as under :-

"(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced."

5. A perusal of the above Section shows that the Court may impose a sentence, of which fine does not form a part. The Court may, when passing judgment, order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

6. Therefore, with a view to award compensation, the

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order imposing fine is set aside so as not to form a part of sentence. The Hon'ble Supreme Court in [Hari Kishan and State of Haryana v. Sukhbir Singh & others, 1988 \(2\) RCR\(Crl.\) 394 \(SC\) : AIR 1988 Supreme Court 2127](#) has held that the provision relating to awarding of compensation to victims while imposing sentence has been seldom invoked. It has been held that in addition to conviction, the Court may order the accused to pay some of the amount by way of compensation to the victim who has suffered by the act of the accused. This power is intended to do something to re-assure the victim that he or she is not forgotten in the criminal system. It is a measure of responding appropriately to crime as well as reconciling the victim with the offender.”

Accordingly, sentence awarded to the petitioners is reduced to the period already undergone. However, the fine imposed upon the petitioners under Section 326 IPC is enhanced to Rs.10,000/- each. The sentence awarded by the courts below under Section 323 read with Section 34 IPC is affirmed, whereas under Section 326 IPC, it stands affirmed with aforesaid modification. The enhanced fine amount shall be treated as compensation and paid to injured-complainant, Satwant Kaur. The petitioners be released forthwith, if not required in any other case, but on deposit of the enhanced fine amount.

With the observations made above, both the revision petitions are disposed of.

07.02.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No