

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2364 of 2019 (O&M)
Date of Decision: 07.01.2020

Sanjay and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Munfaid Khan, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARNARESH SINGH GILL, J.

The petitioners have preferred this petition being aggrieved of the judgment dated 4.9.2019, passed by Additional Sessions Judge, Faridabad, vide which the appeal filed by them, challenging the judgment of conviction dated 10.8.2018 and order of sentence dated 14.8.2018, passed by Judicial Magistrate Ist Class, Faridabad in case FIR No. 78 dated 26.2.2014 under Section 323, 325, 34 IPC, registered at Police Station Saran, Faridabad, was dismissed.

The brief facts of the present case are that Virender made a complaint to the police alleging that on 2.1.2014, at about 11.30 P.M, he was going to Azadpur Mandi, New Delhi. When he reached near Dabua Colony, accused Sunil caught hold of him from his back and accused Sanjay gave an iron rod blow on his head. Accused Bablu gave an iron rod blow on his right hand. Accused Raj Kumar, Mithlesh and Mukesh along with three unknown persons came there and caused hurt to him. On his raising

alarm, Monu came at the spot and he took him to B.K.Hospital. On the basis of the said complaint, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the accused.

Charges were framed against the accused under Sections 323 and 325 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as seven witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded false implication.

The trial Court vide judgement dated 10.8.2018 convicted the accused under Sections 323 and 325 read with Section 34 IPC and vide order dated 14.8.2018 sentenced them to undergo simple imprisonment for a period of three months qua commission of offence punishable under Section 323 read with Section 34 IPC. They were further sentenced to undergo simple imprisonment for a period of one year with fine of Rs. 500/- each qua commission of offence punishable under Section 325 read with Section 34 IPC.

The appeal preferred by the petitioners was dismissed by the Appellate Court vide judgment dated 4.9.2019. However, the appeal preferred by co-accused Sunil was allowed and he was acquitted of the charges framed against him.

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

During the course of arguments, counsel for the petitioners has

confined his prayer only to the quantum of sentence imposed upon the petitioners.

Learned counsel for petitioners has submitted that the petitioners are in custody since 4.9.2019. The FIR in question was registered in February, 2014 and they have faced the agony of protracted trial for more than five years. On these premises, learned counsel for the petitioners prays that the substantive sentence imposed upon the petitioners may be reduced to the one already undergone by them. Reliance was placed on the decision of this Court rendered in the case of ***Boota Singh versus State of Punjab 2012 (2) R.C.R. (Criminal) 568*** and the judgment of the Calcutta High Court in ***K.V.Hussain versus State, 2006(20) R.C.R. (Criminal) 870***.

With the able assistance of the learned counsel for the petitioner and the learned State counsel, I have gone through the judgments of the Courts below.

As the prayer made by the petitioners is restricted only to the sentence, therefore, the findings recorded by the Courts below convicting the petitioners do not call for any interference and the same are accordingly affirmed.

While coming to the sentence part, the petitioners are in custody since 4.9.2019 and they have already undergone about four months of actual sentence out of substantive sentence of one year. Taking into consideration that the FIR in the present case was registered on 26.2.2014 and petitioners have been facing the agony of trial for the last more than five years, in my opinion, no useful purpose would be served by keeping the petitioners behind the bars to undergo the remaining sentence. The ends

of justice would be suitably met, if the substantive sentence imposed upon the petitioners is reduced to the one already undergone by them.

In view of the above, while upholding the conviction of the petitioners under Sections 323 and 325 read with Section 34 IPC, the substantive sentence imposed upon the petitioners is reduced to the period already undergone by them.

The petitioners who are in custody, be set at liberty forthwith, if not required in any other case.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

January 07, 2020
Gurpreet

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