

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2610-2019 (O&M)

Date of decision: 18.02.2020

Hari Mohan @ Rahul and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Rajesh Lamba, Advocate for the petitioners.

Mr. Amrik Deswal, DAG, Haryana.

Ms. Neeru Thakur, Advocate for respondents No. 2 to 5.

RAMENDRA JAIN, J. (ORAL)

Through instant revision, petitioners, namely; Hari Mohan @ Rahul and Prama @ Prem Singh, have laid challenge to judgment dated 20.09.2019 of Ist Appellate Court, dismissing their appeal, affirming judgment of conviction dated 23.09.2016 and order of sentence dated 30.09.2019 of Juvenile Justice Board, Faridabad, whereby they were held guilty under Sections 148, 323, 325, 307 and 506 read with Section 149 IPC and ordered to be kept in Special Home, Ambala for two years.

Learned counsel for the petitioners submits that there is compromise in between the petitioners and complainant party. Therefore, he does not challenge the impugned judgments qua conviction of the petitioners on merits. Earlier, the petitioners with similar plea approached this Court by way of CRM-M-14377-2014, for quashing of FIR, wherein,

Court, disagreeing with the petitioners referred them back to lower Appellate Court, where their appeal was pending, with observation that the Appellate Court, may take lenient view in the matter of their sentence. However, lower Appellate Court, without taking any lenient view dismissed appeal of petitioners in *toto*, vide impugned judgment dated 20.09.2019. The petitioners have been facing an ordeal for the last 12 years, inasmuch as, after registration of FIR in the year 2008, a protracted criminal trial has been hanging on their head like a damocle's sword which is also a mitigating circumstance to treat them leniently in the matter of sentence. Therefore, taking lenient view their sentence may kindly be reduced to the period already undergone.

On the other hand, learned counsel for respondents No. 2 to 5, stated at bar, that she has no objection, in case, sentence of the petitioners is reduced to the period already undergone.

As per custody certificates dated 17.02.2020, both the petitioners have undergone 06 months and 01 days, including remissions.

Since, the parties have arrived at a compromise and that the same would bring peace and harmony in their relations, this Court is of the view that no useful purpose would be served by keeping the petitioners behind bars any more, inasmuch as, they have already faced a protracted trial for around 12 years suffering great mental agony. More so, sentences of their 5 co-accused have already been reduced by a co-ordinate Bench of this Court, vide orders dated 16.08.2012 and 03.09.2012 (Annexures P-3 and P-4, respectively), passed in CRA-S-1814-SB-2012, to the undergone. Therefore, it is a fit case, wherein sentence awarded to the petitioners can be reduced to the period already undergone, subject to payment of costs of

₹60,000/- each to be deposited within two weeks from today, out of which ₹30,000/- each shall be deposited with the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh and ₹30,000/- each with the Welfare Centre for Persons with Speech and Hearing Impairment, Chandan Nagar, Sector 15, Phase-2, Behind ITI, Gurugram, Bank Account No.000434003000357, the Gurgaon Central Co-operative Bank Ltd. or Bank, Account No.1245010000518, United Bank of India. They can also opt to deposit the aforesaid amount of ₹30,000/- each with the PGIMER online through its website “www.pgimer.edu.in”.

Consequently, the revision is dismissed qua conviction of the petitioners. The impugned judgments of conviction passed by the Courts below are upheld. Order of sentence dated 30.09.2016 is modified to the extent that the sentence awarded to petitioners, namely; Hari Mohan @ Rahul and Prama @ Prem Singh, is reduced to the period already undergone. They be released forthwith, if, not required in any other case.

List on 06.03.2020, for production of original receipts qua deposit of aforesaid costs.

To be shown in urgent list.

In case of non-compliance of this order in its letter and spirit, this revision would entail dismissal for want of prosecution.

February 18, 2020

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No