

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3023-2019 (O&M)

Banti @ Gurdeep Singh

....Petitioner

Versus

State of Haryana

...Respondent

CRR-3032-2019 (O&M)

Jeet Singh @ Harjeet Singh

....Petitioner

Versus

State of Haryana

...Respondent

Reserved on: 14.08.2020

Pronounced on: 21.08.2020

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.J.S.Dhaliwal, Advocate, for the petitioners.

Mr.Rajeev Goel, DAG, Haryana.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. SANDHAWALIA, J.

Present judgment shall dispose of 2 revision petitions, filed under Section 397 read with Section 482 of Cr.P.C., by accused, Gurdeep Singh @ Banti and Harjeet Singh @ Jeet Singh, against the judgment of conviction recorded by the Judicial Magistrate, 1st Class, Sirsa dated 26.07.2017. The petitioners along with another accused, namely, Rajinder Singh @ Raju, who has not filed any revision, have been sentenced under Section 323 for 3 months and a fine of Rs.500/-, under Section 324 for 6 months and a fine of Rs.1000 and under Section 326 to undergo imprisonment for 3 years and a fine of Rs.3000. In default thereof, they have to further undergo imprisonment for periods between 1 month to 3 months.

The issue has been limited only to the quantum of sentence since notice of motion was issued by a Co-ordinate Bench on 18.11.2019 in the revisions on the ground that a statement had been made by counsel for the petitioners that the petitioners are willing to compromise the matter by suitably compensating the victim. Atamjit Singh had been, thus, impleaded as respondent No.2. The complainant has not put in appearance despite having been served, as noticed vide order dated 04.12.2019. The challenge to the conviction order passed by the JMIC had been upheld by the Addl.Sessions Judge, Sirsa on 10.10.2019, which is also subject matter of challenge.

The factual matrix is limited to the extent that the complainant, had lodged the FIR on 12.08.2010 regarding the occurrence which had taken place on 10.08.2020. It was his case that he along with his mother, Harmeet Kaur were coming after meeting the maternal uncle's son on a motorcycle and had reached near a brick-kiln where the 3 accused persons along with 10-12 other persons had come on 4 motorcycles and surrounded them. Injuries had been inflicted upon the complainant by Gurdeep Singh @ Banti armed with a sword who gave a blow on the left leg. Non-applicant, Raju had given a datar blow on his right leg whereas petitioner-Harjeet Singh @ Jeet Singh had given blows with danda upon the stomach, waist and feet. The mother of the complainant had tried to rescue him but of no avail and on account of receiving the injuries, he became unconscious. The said persons had run away after snatching Rs.9000/- which they were carrying. The cousin brother, Surjit Singh had thereafter come on the spot and taken them into Government hospital, Sirsa after arranging a vehicle. The complainant along with his mother had been examined as PW-1 and PW-4 including PW-5, Surjit Singh, the cousin. Similarly, the doctors had been examined as PW-6, PW-8

and PW-9. A finding thus was recorded that the injuries had been inflicted both by a sharp edged weapons and there was a grievous injury as there was a fracture on the left middle tibia around which there were also incised wound and lacerated wound present, as per the X-ray report dated 11.10.2010. Resultantly, it fell within the ambit of Section 326 IPC and accordingly, conviction, as such, had been recorded, as noticed above.

The Lower Appellate Court had also scanned through the record and noticed that as per the report (Ex.PW-9/A) injury No.7 was the grievous injury caused with a sharp edged weapon and even the mother who was an eye-witness had deposed regarding the injuries which were inflicted upon the complainant, Atamjit Singh. It was, accordingly, held that injuries No.4 & 7 which were incised wounds on the legs were freshly bleeding and could not be treated as old injuries and therefore, the medical evidence corroborated with the eye-witness account. The motive part was attributed on account of the fact that the complainant had mentioned the factum of slapping the accused-Raju one year prior to the date of incidence and there was a grudge against the injured.

A faint argument is sought to be raised by counsel for the petitioners that there was a delay in lodging of the FIR. The fact would be clear from the statement of PW-4, attached as Ext.P-4 that the victim was unfit to record his statement when the policemen had come on the night of 10.08.2010 and the same stands duly explained. The cross-examination of PW-4, Atamjit Singh would also go on to show that one of the accused, Sukha was working with the complainant in the photography business. The complainant had also specifically told in his statement that there was a personal enmity between them and thus, they were specifically named in the FIR, at the first instance and the motive stands duly established. It has also come in the statement of PW-4,

Atamjit Singh that his father was the MC of Rania and running a photography business and in such circumstances, the Lower Appellate Court has also come to the right conclusion that there was a motive on the part of the accused. The judgments passed by the Courts below do not suffer from any perversity which would warrant interference by this Court in the revisional jurisdiction as counsel for the petitioners could not point out any illegality or impropriety on the part of the findings recorded apart from questioning the sentencing aspect. Resultantly, there is no ground to interfere on merits thereof, keeping in view the fact that the prayer was also limited at the initial stage, by the Co-ordinate Bench. The issue that arises now is only on the quantum of punishment.

It is not disputed that Harjeet Singh @ Jeet Singh has undergone 1 year 7 months of actual sentence which was the sentence after including the undertrial period, as per custody certificate dated 13.08.2020. Gurdeep Singh @ Banti has undergone 11 months 12 days of imprisonment. Admittedly, the incident took place 10 years back and the petitioners have faced prosecution for 7 years before conviction and eventually, their appeal was dismissed on 10.10.2019 and they were taken into custody. The petitioners were 28-29 years old when the incident had taken place and it was their specific case that Gurdeep Singh has a old aged mother to support whereas Harjeet Singh apart from having a old aged father has a wife and a small daughter to look after. It is brought to the notice of this Court by counsel for the petitioners that Harjeet Singh has been blessed with another daughter thereafter. It is also to be noticed that the injuries with the sharp edged weapons have not been inflicted on the vital parts of the body and are only on the legs of the complainant which would be another mitigating factor in favour of the petitioners.

Resultantly, in view of the above discussion, this Court is of the opinion that while exercising its powers of revision, the sentence of both the petitioners can be reduced to 1 ½ years keeping in mind the above circumstances. However, while exercising the powers under Section 357 (3) & (4), the said reduction in sentence would come with the condition that the petitioners would pay Rs.12,500/- as compensation, each to the complainant, in view of their reduction in sentence. The said amount be deposited with the Trial Court, on which the petitioners be released on completing their sentence for a period of 1 ½ years. The amount be disbursed to the complainant by the Trial Court. Both the revision petitions are disposed of with the above-said modifications.

21.08.2020
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*