

CRR-3252-2019

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

**CRR-3252-2019 (O & M)
Date of Decision:10.02.2020**

Raj Singh and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Nupur Choudhary, Advocate,
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARNARESH SINGH GILL, J.

Challenge in the revision petition is to the judgment dated 18.11.2019 passed by the learned Additional Sessions Judge, Rewari, whereby while dismissing the appeal filed by the petitioners, the judgment of conviction dated 21.03.2015 and order of sentence dated 24.03.2015 passed by the learned Sub Divisional Judicial Magistrate, Kosli, in FIR No.30 dated 21.04.2009, under Sections 323, 325 and 34 IPC, registered at Police Station Rohrai, have been upheld.

The petitioners were tried for committing the offences under Sections 323, 325 and 34 IPC. As per the prosecution version, complainant, Ram Kishan, submitted a complaint to the effect that on 22.02.2009 at about 4.00 O' Clock, when he was present in his house, Pohap Singh, Raj Singh, Charan, Ramphal, Sunil and Jaiveer had come there and inflicted injuries to him, his elder brother, Dalip Singh and his son, Manveer without any reason. On hearing the noise, Mahender and Satish had reached there and

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rescued them from the clutches of the accused. Accused-Jaipal had continued to stay at the place of occurrence and asked that the house did not belong to them and they would lose it. During the fight, an amount of Rs.25,000/- of the complainant was lost. The bone of contention between the parties is that towards the southern side of house of complainant, there exists a *rasta* and a civil suit is pending between the parties in this regard. On the basis of statement of complainant, FIR was registered.

On the basis of the evidence led, it stood proved before the learned trial Court that the petitioners in furtherance of their common intention had caused simple and grievous injuries to the complainant party with the help of blunt-edged weapon. Consequently, the petitioners were convicted under Sections 323 and 325 read with Section 34 IPC. They were, accordingly, sentenced to undergo as under:

Section	Sentence
323 IPC	To undergo rigorous imprisonment for a period of one year each.
325 IPC	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/- each.

Both the sentences were ordered to run concurrently.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioners preferred appeal before the learned Sessions Judge, Rewari. However, vide impugned judgment dated 18.11.2019 passed by the learned Additional Sessions Judge, Rewari, 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 petition.

I have heard the learned counsel for the parties and gone

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through the record.

Both the courts below after having scrutinized the evidence on record, have rightly convicted the petitioners for the offences under Sections 323 and 325 read with Section 34 IPC. Learned counsel for the 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 complainant-Ram Kishan (PW 3), his son-Manveer (PW 4) and Dalip (PW 5) had received the injuries 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 323 and 325 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 22.02.2009; that the petitioners are first time offenders and ; that they have been in custody since the date of dismissal of appeal and that by now, they have undergone 2 months and 25 days each, out of the total sentence of 02 years. Thus, it is prayed that the sentence imposed upon the petitioners may be reduced to the period already undergone by them.

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 had taken a very lenient view while imposing the sentence 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 and they have undergone the sentence of 2 months and 25 days each, 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 by them and in lieu thereof, they can be burdened with compensation to be paid to the injured.

The view taken by this Court also finds support from the judgment rendered by this Court in Om Parkash alias Parkash Vs. State of Haryana 2003(3) R.C.R. (Criminal) 766 wherein it 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 order imposing fine is set aside so as not to form a part of

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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 imposed upon the petitioners is reduced to the period already undergone by them, subject to deposit of compensation of Rs.35,000/- (Rs.5,000/- by each petitioner) under Section 357 Cr.P.C with the trial Court to be paid to the injured (Ram Kishan, Manveer and Dalip) in equal shares, in addition to the fine already imposed by the Courts below. The impugned judgments of conviction and order of sentence, including default clause, stand affirmed with aforesaid modification. It is made clear that the petitioners shall be released only on deposit of the aforesaid amount and their sentence shall stand reduced upto their actual release. It goes without saying that if the amount of fine/compensation is not deposited, the present revision petition shall stand dismissed automatically.

With the observations made above, the present revision petition is disposed of.

10.02.2020
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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