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

**CRR-2553-2019 (O & M)
Date of decision: 20.09.2021**

Buggar Singh and others

...Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. P.K.Ganga, Advocate,
for the petitioners.

Mr. Chaman Lal Pawar, Sr. DAG, Punjab.

None for respondent No.2.

HARNARESH SINGH GILL, J.

Case was taken up for hearing through video conferencing.

Custody certificates dated 14.09.2021, by way of affidavits of the Deputy Superintendent, District Prison, Mansa, have been filed through e-mails. Prints out of the same are taken on record.

The petitioners are aggrieved against the judgment dated 09.08.2019 passed by the learned Additional Sessions Judge, Mansa, upholding the judgment and order dated 16.09.2015 passed by the learned Sub Divisional Judicial Magistrate, Sardulgarh, whereby each of the petitioners was convicted under Sections 452 and 323 IPC and sentenced as under:

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Offence under Section	Sentence and Fine
452 IPC	To undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further simple imprisonment for a period of 07 days.
323 IPC	To undergo simple imprisonment for a period of one year.

However, the sentences were ordered to run concurrently.

Respondent No.2-complainant filed a complaint under Sections 307, 452, 326, 323, 506 and 34 IPC against the petitioners and one Nazar Singh. On the basis of preliminary evidence led by respondent No.2, the petitioners had been summoned for the offences punishable under Sections 452, 326, 323 and 506 IPC.

On the basis of pre-charge evidence, the complainant examined as many as five witnesses. On finding a *prima facie* case, the petitioners and one Nazar Singh were charge-sheeted, to which they pleaded not guilty and claimed trial.

Thereafter, statement of the accused under Section 313 Cr.P.C. were recorded, wherein they denied the case of the complainant and pleaded innocence. However, in his defence, the accused did not examine any witness.

On the basis of the evidence led, it stood proved before the learned trial Court that the accused had caused injuries on the person of complainant by committing house trespass. Resultantly, the accused/petitioners and one Nazar Singh were convicted under Sections 452 and 323 IPC. They were, accordingly, sentenced under the aforesaid sections, as noticed above.

However, they were acquitted of the charges under Section 326

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and 506 IPC.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioners preferred an appeal before the learned Additional Sessions Judge, Mansa. However, vide impugned judgment dated 09.08.2019 passed by the learned Additional Sessions Judge, Mansa, the appeal was dismissed. However, the sentences were ordered to run concurrently.

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

During the course of hearing, learned counsel for the petitioners did not lay any challenge to the judgments of conviction of the petitioners recorded by the courts below and for that reason, the facts are not required to be reproduced here.

Learned counsel for the petitioners has made submissions only on the aspect of sentence on which this Court has heard him as well as the learned State counsel.

While making submissions qua the quantum of sentence, learned counsel for the petitioners would submit that the petitioners are first offenders; that they have no shady past; that they have been facing the agony of the trial since 2011; that the petitioners are the only bread winning members of their family, and that their conduct during the trial has been quite fair and *bona fide* and not obstructed the course of trial and the appeal. Each of the petitioners has already undergone the actual sentence of more than 10½ months. Under these circumstances, the sentence imposed upon the petitioners may be reduced to the one already undergone by them.

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On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioners, would submit that the sentence awarded to the petitioners is in proportion to the offences committed by them. The petitioners do not deserve any leniency.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that both the courts below have rightly convicted and sentenced the petitioners under Sections 452 and 323 IPC. There is no manifest error in the concurrent findings recorded by the courts below.

Thus, in my opinion, in view of the evidence on record, there is no scope for least interference in the findings of the Courts below, so far as the conviction under Sections 323 and 452 IPC is concerned. Hence, the conviction of the petitioners under Sections 323 and 452 IPC is upheld.

However, the fact remains that the present complaint was filed on 05.07.2011; that the petitioners have been facing the agony of protracted trial for the last 10 years approximately, and that by now, each of the petitioners has undergone the actual sentence of more than 10½ months out of the substantive sentence of one year.

In this backdrop, while upholding the conviction of the petitioners under Sections 323 and 452 IPC, the substantive sentence imposed upon the petitioners is reduced to the one already undergone by them. The fine imposed upon the petitioners along with its default clause, under both the aforesaid sections is

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maintained. The petitioners be released forthwith in this case, if not required in any other case.

Revision Petition is disposed of in the above terms.

20.09.2021

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No