

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

CRA-S-2577-SB of 2007

DATE OF DECISION :- September 15, 2022

Kaku and others

...Appellants

Versus

State of U.T., Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. K.S. Sidhu, Advocate for the appellants.

Mr. D.S. Brar, A.P.P., U.T., Chandigarh.

1. Custody certificates filed by the State counsel be taken on record.
2. Appellants Kaku, aged 26 years, son of Jaswant Singh, resident of House No. 1270, Dadu Majra Colony, Chandigarh, Pappi, aged 25 years, son of Jag Jiwan, resident of House No. 1252, Dadu Majra Colony, Chandigarh and Rajesh, aged 25 years, son of Bans Lal, resident of House No. 1252, Dadu Majra Colony, Chandigarh, faced trial by Additional Sessions Judge, Chandigarh in case F.I.R. No. 403 dated 30.8.2002 under Sections 307/34 IPC registered with Police Station Sector 39, Chandigarh, on the allegations that all three of them along with their co-accused Rinku (Juvenile) on 30.8.2002, near House No. 1281, Dadu Majra Colony within jurisdiction of Police Station Sector 39, Chandigarh caused injuries to

Pawan Kumar with a knife (sharp edged weapon), Kaku had caused simple injury on person of Vikas whereas Rajesh and Pappi gave kick and fist blows on person of Pawan Kumar and Vikas and all this had been done in pursuance of common intention of all the assailants.

3. The charge was framed against the appellants accused for offences under Sections 307 read with Section 34 IPC as well as Sections 323/34 IPC.

4. On conclusion of trial , vide judgment dated 27.11.2007, Kaku, Pappi and Rajesh accused were though acquitted of the charge under Section 307/34 IPC but they were convicted for offences under Sections 324/34 IPC and under Section 323 IPC. In terms of the order passed on that very day they were sentenced as follows :-

Under Section	Sentence of Imprisonment
Under Section 324/34 IPC	Three months simple imprisonment, with fine of Rs.1500/- or in default of payment of fine 7 days simple imprisonment each.
Under Section 323	One months simple imprisonment with fine of Rs.500/- or in default of payment of fine 5 days simple imprisonment.

5. All the substantive sentences were ordered to run concurrently.

6. Feeling aggrieved by the judgment of conviction and sentence, the accused have approached this Court by way of filing an appeal, which came up for hearing on 24.12.2007, when it was admitted, notice of which was given to the State.

7. I have heard learned counsel for the appellants and learned State counsel besides going through the record.

8. At the very outset, learned counsel for the appellants states that he does not challenge the judgment passed by the trial Court on the point of

conviction though he has got submissions to make with regard to sentence part. He has contended that all the appellants are poor persons and only earning members in the family. Appellant Kaku was aged about 26 years, Pappi and Rajesh 25 years each at the time of incident. None of the appellants has got any past criminal record. The appellants have not indulged in any criminal activity after being granted concession of suspension of sentence and released on bail. He has submitted that in terms of the custody certificates filed by the State counsel, Kaku has undergone 1 month and 4 days, Pappi and Rajesh have undergone 23 days each of imprisonment out of total imprisonment of three months awarded to them, therefore, leniency be shown to the appellants in the matter of sentence.

9. Learned State counsel submits that the Court may pass any order which is considered suitable under the circumstances.

10. After hearing learned counsel for the appellants and learned State counsel besides going through the record, the judgment of conviction passed against the appellants is upheld whereas as regards the order of sentence, keeping in view the mitigating circumstances explained by learned counsel for the appellants and the fact that the incident in this case has taken place on 30.8.2002 and now we are in September, 2022 that means the occurrence took place more than 20 years back; the appellants are not shown to have indulged in any criminal activity during the intervening period; they are not shown to have any past criminal record, I find that ends of justice shall be adequately met if the sentence of imprisonment awarded to the appellants is reduced to one already undergone by them in this case whereas keeping the fine part intact. It is ordered accordingly.

11. Learned counsel for the appellants states that appellants have

already paid the amount of fine. The receipts with regard to deposit of fine have been placed on record.

12. With such modification in the sentence, the appeal stands disposed of accordingly.

(H.S. MADAAN)
JUDGE

September 15, 2022
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No