

**CRR-426-2008 AND
CRR-427-2008**

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

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**CRR-426-2008
Decided on :18.04.2022**

Dalip Singh

... Petitioner

Versus

State of Haryana

... Respondent

AND

CRR-427-2008

Balbir Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sanjay Vashisth, Advocate
for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

By virtue of this common order, this Court proposes to dispose of two revision petitions bearing No. CRR-426-2008 titled as Dalip Singh Vs. State of Haryana and CRR-427-2008 titled as Balbir Singh Vs. State of Haryana.

Both the criminal revisions have been filed against the judgment dated 10.08.2004 vide which the Sub Divisional Judicial Magistrate, Loharu has convicted both the petitioners i.e. Dalip Singh and Balbir Singh, under Sections 323, 325 and 34 of the Indian Penal Code, 1860.

Challenge is also to the judgment dated 12.02.2008 vide which two separate appeals filed by the petitioners Dalip Singh and Balbir Singh have been dismissed with the modification that the sentence awarded to the petitioners has been reduced from two years to one year of rigorous imprisonment.

Brief facts of the present case are that on 11.12.1996 complainant Har Narain son of Harsukh after arriving at the police station, got his statement recorded wherein he levelled allegations to the effect that on 08.12.1996 Dalip Singh and Balbir Singh came to his village and asked the complainant to take them by his tractor to village Bardu Dhirja, to which the complainant agreed and after reaching the said village, the petitioners requested the complainant to drop them to village Bardu Jogi and the complainant refused as there was no sufficient fuel in his tractor. However, on insistence of the petitioners, the complainant agreed to take them to village Bardu Jogi and at about 07:30-09:00 PM, when they reached village Bardu Jogi then, the petitioners consumed liquor and thereafter, beat up the complainant by slapping him and inflicting fist blows upon him and Inder and Dariya, residents of nearby village informed the house of the complainant whereupon, Om Parkash son of Nanhar and Dharam Chand son of Udmi Ram came and took him to a private hospital and since the date of the occurrence, the complainant had been waiting for getting the matter compromised but the same did not mature and thus, the matter was

reported to the police. On the basis of the said statement, FIR was registered and charges were framed under Sections 323, 325 and 326 IPC read with Section 34 . Vide order dated 14.10.1997, the petitioners pleaded not guilty and claimed trial and as many as 10 witnesses were examined in the present case. The list of the said witnesses is reproduced hereinbelow:

Inder Singh son of Shish Ram as PW.1, Dariya Singh son of Jhandu as PW.2, Harnarain son of Harsukh Ram as PW.3, Om Parkash son of Nanhar Ram as PW.4, Dharam Chand son of Udmi Ram as PW.5, ASI Hazari Lal as PW.6, SI Nihal Singh as PW.7, Dr. R. S. Poonia as PW.8, Dr. Vinod Sharma, as PW.9 and Balwan Singh, Record Keeper, P.G.I.M.S. Rohtak as PW.10.

Learned trial Court after considering the entire evidence on record convicted the present petitioners under Sections 323 IPC read with Section 34 IPC and Section 325 IPC read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for a period of two years and also to pay the fine.

Two separate appeals were filed by the petitioners which were dismissed but however, the sentence of two years of rigorous imprisonment was reduced to one year of rigorous imprisonment. Both the Courts had acquitted the petitioners of Sections 326 IPC.

Learned counsel for the petitioners has submitted during the course of arguments that he would not challenge the conviction of the petitioners as ordered by the learned Additional Sessions Judge (Fast Track Court), Bhiwani and would be satisfied in case the sentence of petitioners is reduced to the period already undergone. It is further submitted that the incident in the present case is of the year 1996 and the petitioners were released on bail/parole even during the pendency of the present case and have never misused the said concession of bail. It is argued that the petitioners have already suffered the agony of trial/appeal/revision and are not involved in any other case. It is further argued that the petitioner Dalip Singh has already undergone 1 month and 7 days of actual custody out of the period of 1 year of rigorous imprisonment awarded. The petitioner Dalip Singh is stated to be 57 years of age and he is the sole bread winner of the family. It is contended that the petitioner Balbir Singh has also already undergone 1 month and 7 days of actual custody out of the period of 1 year of rigorous imprisonment awarded and is 61 years of age and he is also the sole bread winner of his family. Learned counsel for the petitioners has submitted that the ends of justice would be met if leniency is shown to the accused petitioners in the matter of sentence. He has further relied upon decision of this Court in ***CRR-1244-2013 decided on 14.1.2019 titled "Anju V. Naresh and another V. State of Haryana"*** as well as the judgment of this Court dated 08.03.2010 passed in ***CRR-1859-2008***

titled “Gaya Prashad V. State of Haryana”, while praying for reduction of sentence to the period already undergone.

Learned State counsel, on the other hand, has stated that the petitioners have been rightly convicted by both the courts below and no interference is called for in the present revision petition. He has placed on record the custody certificate from which the period undergone by the petitioners stand reaffirmed and it also stands reaffirmed that the petitioners are not involved in any other criminal case.

This Court has heard learned counsel for the parties and has perused the paperbook and has also considered the merits of the case.

This Court is of the opinion that the conviction of the petitioners under Section 323 and 325 read with Section 34 of IPC deserves to be upheld. PW-3 Har Narain, who is the injured/complainant, has specifically testified that both the petitioners came to the village and requested him to take them to village Bardu Dhirja on his tractor and thereafter to village Bardu Jogi and consumed liquor and even forced the complainant to consume the same and once the complaint came under the influence of alcohol, then, the petitioners slapped him and gave him fist blows, on account of which, the complainant suffered injuries, which have been detailed by PW-8, who had medically examined the injured-Har Narain. There are total five injuries out of which, injury No. 1 and 2 are grievous in nature whereas the other 3 injuries are simple in nature. PW-4 Om Parkash testified that

he had taken the injured to the hospital. PW-7 SI Nihal Singh was the investigating Officer who duly proved on record the FIR Ex. PW7/A as well as endorsement Ex. PW7/B and the other documents. The abovesaid witnesses have been cross examined, however, nothing has come out from the cross examination so as to rebut the evidence led by them. Thus, from the said evidence, it is proved that the petitioners are guilty of the offences under Sections 323, 325 and 34 IPC and the Courts below have rightly come to the said conclusion.

As far as the reduction of sentence awarded is concerned, it would be relevant to mention that in the present case, the incident is of the year 1996 and the petitioners have already suffered the agony of trial/appeal/revision for the last 25 years. The petitioners are not involved in any other case. The petitioners have been granted the benefit of suspension of sentence/bail but have never misused the same. The petitioners are stated to be old persons aged at about 57 years and 61 years respectively and are the sole bread winner of their families. Moreover, in the incident no weapon had been used and the fight as per the prosecution case, took place after the petitioners as well as complainant had consumed liquor.

Thus, keeping in view the abovesaid facts and circumstances and also keeping in view the judgments relied upon by learned counsel for the petitioners, sentence awarded to the petitioners is ordered to be reduced to the period already undergone, subject to the

petitioners depositing an amount of Rs.15,000/- each, before the concerned Chief Judicial Magistrate/Illaqa Magistrate, within a period of two months from today.

It is made clear that in case the said amount of Rs.15,000/- each, is not deposited within the stipulated period of two months from today, the present criminal revision petition would be deemed to have been dismissed. The concerned Chief Judicial Magistrate/Illaqa Magistrate after the deposit of the amount of Rs.15,000/- each (Rs.30,000/- total) by the petitioners as has been directed, would issue notice to the injured/complainant Har Narain son of Harsukh and thereafter, release the same to the said complainant/injured Har Narain son of Harsukh.

With the abovesaid observations, the present revision petition is disposed of.

(VIKAS BAHL)
JUDGE

April 18th, 2022
Mehak

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