

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-4759-2016

Date of decision : 16.03.2022

Lal Chand and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sanjay Jain, Advocate
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

Challenge in the present revision petition is to the judgment dated 25.03.2015 and order of sentence dated 26.03.2015 passed by the Judicial Magistrate Ist Class, Ambala vide which the petitioners along with other co-accused were convicted and sentenced under Sections 148, 323, 324, 325, 326, 506 IPC and challenge is also to the judgment dated 23.11.2016 vide which the appeal against conviction under Sections 323, 324 read with Section 34 IPC was upheld and the petitioners were sentenced to a maximum period of one year of imprisonment.

Brief facts of the case are that the petitioners along with three other co-accused were made accused in the FIR no.70 dated 08.09.2008 for the offence under Sections 148, 323, 324, 325, 326, 506 read with Section 149 IPC on the allegation that on 08.09.2008 at about 05:30 AM in the area

and were armed with deadly weapon committed rioting after having made preparation for causing hurt and also caused simple injuries to Jagir Ram and Satpal as well as grievous hurt to Jagir Ram and Satpal with sharp edged weapons, on the basis of which the FIR was registered. After completion of investigation, the report under Section 173 Cr.P.C. was submitted and charges were framed.

The prosecution examined 10 witnesses, the details of which are given hereinbelow:-

PW-1 C. Jasbir Singh

PW-2 Sunder Ram

PW-3 Jagir Ram

PW-4 Satpal

PW-5 EASI Mange Ram

PW-6 Karam Chand

PW-7 Dr.Harsh

PW-8 ASI Jinder Singh

PW-9 Dr.Manisha Aggarwal

PW-10 Retired ASI Phool Singh

PW-1 C.Jasbir Singh was an official witness. PW-2 Sunder Ram was an eye witness to the occurrence who had stated that he had gone for a *rasam pagri* ceremony and there, Jarnail Singh and Tejpal had an altercation and in order to resolve the issue, the Sarpanch had called the parties at 9:00 AM on 08.09.2008 and thereafter, a fight took place and on that day when his brother Jagir Ram went to attend the call of nature, he was followed by the accused persons and there, co-accused Fakir Chand raised *lalkara* that Jagir Ram be taught a lesson and Tejpal attacked on the head of Jagir Ram with *bahlam* in his hand and Tarsem (petitioner no.2) hit *lathi* on the left arm of said Jagir Ram and Lal Chand (petitioner no.1) also

hit Jagir Ram on other arm with *lathi* and thereafter, Lal Chand gave a

gandasi blow on the head of Satpal Singh who had come to rescue the said Jagir Ram and Tejpal also hit the witness on his right arm with a *bahlam* in his hand. Thus, the prosecution case was supported by the evidence of PW-2 Sunder Ram. PW-3 Jagir Ram was the injured in the case and had also supported the testimony of PW-2. PW-6 Karam Chand was also an eye witness who had also supported the case of the prosecution. PW-7 Dr. Harsh and PW-9 Dr. Manisha Aggarwal were the doctors who had examined the injured persons and had proved the injuries caused to Jagir Ram and Satpal. PW-10 retired ASI Phul Singh, Investigating Officer of the case had fully proved the case of the prosecution.

The trial Court on the basis of entire evidence and documents on record, convicted the petitioners along with Tejpal and Surjit Singh under Sections 148, 323, 324, 325, 326, 506 IPC. Jasmer Singh, i.e. the fifth accused died during the pendency of the proceedings.

An appeal was filed by the petitioners along with Tejpal and Surjit Singh whereby, the Additional Sessions Judge, Ambala, after reconsidering the entire matter acquitted Surjit Singh and convicted the petitioners and Tejpal only under Sections 323 and 324 read with Section 34 IPC and acquitted them of the charges under Sections 148, 325, 326, 506 IPC. The said Tejpal was released on probation and the petitioners were thus, awarded maximum sentence of one year.

The complainant Jagir Ram also filed an appeal for enhancement of sentence before the Additional Sessions Judge, Ambala but the same was dismissed.

Aggrieved against the said judgments and order of sentence, the present revision petition has been filed. During the course of arguments,

learned counsel for the petitioners has submitted that he does not wish to challenge the conviction of the petitioners but he would be satisfied in case a lenient view is taken with respect to the sentence which has been awarded to the petitioners. In this regard, he has submitted that the FIR in the present case is of the year 2008 and thus, the petitioners have suffered agony of trial/appeal/revision for all these years. It is further submitted that the petitioners have never misused the concession of bail / suspension of sentence and the petitioners are not involved in any other case and are the sole bread winners of their families and petitioner no.1 Lal Chand has already undergone 4 months of actual custody and petitioner no.2 Tarsem has already undergone 3 months and 17 days of actual custody out of period of one year, respectively and the said fact is apparent from the order dated 14.02.2017 passed by the coordinate Bench of this Court granting suspension of sentence to the petitioners.

In support of his arguments, learned counsel for the petitioners has relied upon judgments of co-ordinate Benches of this Court in in ***CRR-1244-2013*** decided on 14.01.2019 titled ***“Anju @ Naresh and another Vs. State of Haryana”*** as well as the judgment of this Court dated 08.03.2010 passed in ***CRR-1859-2008*** titled ***“Gaya Prashad Vs. State of Haryana”***, while praying for reduction of sentence to the period already undergone.

Learned State counsel has submitted that the judgments of the Courts below are well reasoned and, thus, the present revision petition deserves to be dismissed.

This Court has heard the learned counsel for the parties and perused the record.

As far as the conviction of the petitioners under Sections 323,

324 read with Section 34 IPC is concerned, this Court finds that the Additional Sessions Judge, Ambala after considering the entire material on record has correctly found that the petitioners have committed the said offences. Even learned counsel for the petitioners has fairly stated that he does not wish to challenge the said finding with respect to the conviction. Moreover, in the present case there were three eye witnesses, i.e PW-2 Sunder Ram, PW-3 Jagir Ram and PW-6 Karam Chand who had fully supported the case of the prosecution. PW-3 Jagir Ram is also stated to be an injured person. PW-7 Dr.Harsh and PW-9 Dr. Manisha Aggarwal had proved on record the injuries suffered by Jagir Ram, which have been found to be simple for which, the petitioners have been convicted and sentenced. PW-10 retired ASI Phool Singh who was the investigating officer of the case, has also fully supported the case of the prosecution. It is thus, apparent that the judgment of Additional Sessions Judge, Amabala convicting the petitioners under Sections 323, 324 read with Section 34 IPC deserves to be upheld.

As far as the sentence which has been awarded to the petitioners is concerned, this Court is of the view that since the incident is of the year 2008 and the petitioners have suffered the agony of trial and filed appeal / revision and the petitioners have never misused the concession of bail / suspension of sentence for these years and are also not involved in any other case and petitioner no.1 Lal Chand has already undergone 4 months of actual custody and petitioner no.2 Tarsem has already undergone 3 months and 17 days of actual custody out of period of one year, respectively and both the petitioners are stated to be sole bread winners of their families, it is ordered that the conviction of the petitioners under

Sections 323, 324 read with Section 34 IPC is upheld and the sentence awarded to the petitioners is reduced to the period already undergone and the same would however subject to the petitioners depositing an amount of Rs.7500/- each (total amount of Rs.15,000/-) within a period of one month from the date of present order with the trial Court. The trial Court is directed to disburse the said amount of Rs.15,000/- to injured Jagir Ram.

The present revision petition is, thus, disposed of with the above modification / observations. It is, however, made clear that in case the petitioners fail to deposit the aforesaid amount within the stipulated time, then, the present petition shall be deemed to have been dismissed, with no further orders.

(VIKAS BAHL)
JUDGE

March 16, 2022
Davinder Kumar

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