

2023:PHHC:125466

CRR-1133-2009 (O & M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1133-2009 (O & M)
Date of Decision: 21.09.2023

Deva Singh and ors.

... Petitioners

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rishabh Chaudhary, Advocate,
for Mr. Aman Pal, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the judgment dated 30.04.2009 passed by the Additional Sessions Judge, Kurukshetra whereby while dismissing the appeal of the petitioners against the judgment of conviction and order of sentence dated 07/08.02.2008 passed by the Judicial Magistrate Ist Class, Kurukshetra, the sentence has been modified/reduced.

2. The instant FIR came to be recorded on the statement of Ashok Kumar Malik, Teshildar, Pehowa who stated that he alongwith Nakli Singh, Lilu Ram and Ram Bahadur in pursuance of an order No.501/DRA dated 20.04.1999 regarding recovery of Rs.80,000/- went to the house of Deva Singh (petitioner No.1), son of Amar Singh. They

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were told that Deva Singh was present in his *Bara*. When he accompanied with his colleagues, reached the *Bara*, then Deva Singh and his sons Gurlal (petitioner No.5), Satish Kumar (petitioner No.3) and Gurmeet Singh (petitioner No.4) alongwith one other unknown person gave beatings to him and his colleagues. Based on the statement of the complainant, the instant FIR came to be registered under Sections 332, 353 and 186 IPC.

3. On the conclusion of the investigation, the report under Section 173 Cr.P.C. was presented and on culmination of the trial, the petitioners were convicted by the Court of the Judicial Magistrate Ist Class, Kurukshetra vide judgment and order of sentence dated 07/08.02.2008 and sentenced to undergo one year rigorous imprisonment alongwith payment of fine of Rs.600/- each under Section 332 IPC. They were also convicted under Section 353 IPC and were sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.400/- each. In default of payment of fine, the convict-petitioners were to further undergo rigorous imprisonment for a period of 03 months. All the sentences were ordered to run concurrently.

4. The petitioners preferred an appeal before the Court of the Additional Sessions Judge, Kurukshetra which came to be dismissed vide judgment dated 30.04.2009. However, the substantive sentence of the petitioners was reduced to 06 months for the commission of offences under Sections 332 IPC and 353 IPC whereas the sentence of payment of fine and the sentence in default of payment of fine remained unchanged.

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5. The present revision petition has been preferred against the aforesaid judgments of conviction.

6. The learned counsel for the petitioner contends that the conviction is based on conjectures and surmises and the witnesses examined are interested witnesses despite the availability of the independent witnesses at the spot. There were material contradiction and discrepancies in the statements of the witnesses. In fact, the instant FIR was on account of political rivalry in the village as the petitioner No.1 was the then Sarpanch of the village. The offence in question could otherwise not have been established as no medico legal examination of the purported injured had been conducted. He lastly contends that as the offence was committed in the year 1999, the sentence imposed upon the petitioners could be reduced since 24 years had elapsed ever since.

7. Separate custody certificates dated 14.09.2023 of Deva Singh, Atma Ram, Satish Kumar and Gurmeet Singh as well as the custody certificate dated 21.09.2023 of Gurlal Singh, have been placed on record by the learned State Counsel. As per the custody certificates, the petitioners have undergone actual custody of 28 days out of their substantive sentence of 06 months.

8. The learned counsel for the State, on the other hand, contends that the offence is well-established in accordance with law. The deposition of the material witnesses were in consonance with each other. There was no requirement of the examination of any independent witnesses when the evidence of the material witnesses was on record. In

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fact, the said witnesses were accompanying the complainant and their deposition established the commission of offence beyond any reasonable doubt. Even otherwise, minor discrepancies could not be fatal to the prosecution case.

9. I have heard the learned counsel for the parties.

10. As per the case of the prosecution, the officials lead by the complainant had gone to the house of the petitioner No.1-Deva Singh for executing the warrants to recover an amount of Rs.80,000/-. The said fact has been established on record based on both oral and documentary evidence. PW-3/Lilu Ram, PW-5/Nakli Singh, PW-6/Ganga Ram, Driver, PW-7/Ashok Malik, Tehsildar, Pehowa and PW-9/Ram Bahadur are all material witnesses who had gone to the place of occurrence to execute the warrants. It is at that point in time, when they had been assaulted by the petitioners while discharging their duties as public servants. The lack of any independent witness does not in any way weaken the case of the prosecution in view of the evidence already on record. In fact, the minor discrepancies cannot be said to be fatal to the prosecution case. Further, the evidence led in defence does not create any doubt in the case of the prosecution. Therefore, the commission of the offences in question stand well-established in accordance with law.

11. In view of the aforementioned discussion, I do not find any reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, the present petition stands dismissed.

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12. As regards the imposition of sentence, the occurrence, admittedly, pertains to 26.05.1999. More than 24 years have elapsed ever since. Therefore, no useful purpose would be served by sending the petitioners back into custody. Thus, I deem it appropriate to modify their substantive sentence, reducing it to the period already undergone by them. However, the sentence of payment of fine is enhanced to Rs.2500/- each under Sections 332 IPC and 353 IPC respectively qua each convict. Out of the total amount of Rs.25,000/-, a sum of Rs.20,000/- shall be paid as compensation to the injured witnesses.

All the sentences are ordered to run concurrently. However, the sentence in default of payment of fine shall remain intact.

13. The present petition stands disposed in the above terms.

14. Since the main revision petition stands disposed of, no order is required to be passed in the pending application(s), if any.

(JASJIT SINGH BEDI)
JUDGE

September 21, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No