

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-1501-2013(O&M)

Date of Decision:-12.01.2023

Kuldeep & Anr.

.....**Petitioners.**

Versus

State of Haryana.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. M.S. Rana, Advocate for the Petitioners.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The present revision has been preferred against the judgment dated 18.04.2013 of the Additional Sessions Judge, Rohtak whereby an appeal filed by the petitioners against the judgment of conviction and order of sentence dated 24.07.2012/25.07.2012 passed by the Sub Divisional Judicial Magistrate, Meham has been dismissed.

2. The brief case of the prosecution was that a formal FIR came to be registered on the statement Ex.PW-6/A of HC Rajbir Singh No.1103, Police Station Lakhan Majra on the allegations that on 10.11.2007 he had gone to village Ajaib along with constable Rohtash in connection with investigation in case FIR No.206 dated 09.10.2007 under Sections 279, 336, 427 IPC in which the arrest of Kuldeep Singh son of Jai Karan was remaining. He informed the chowkidar Jai Narain about the case and then they went to the house of Kuldeep son of Jai Karan (petitioner no.1)

resident of village Ajaib. Kuldeep was standing in front of his house and was identified by Jai Narain, chowkidar. Kuldeep was asked to join investigation but he started abusing him(complainant) and stated that he(complainant) was nobody to arrest him as he had already paid penalty to the electricity board. Kuldeep further caught his neck and shoulder and pulled him due to which his uniform got torn. In the meantime, Guddi sister of Kuldeep & Hargian (petitioner no.2-accused) brother of Kuldeep came and caught his hand and started pushing him. Guddi gave slaps and fist blows to constable Rohtash. Both Hargian and Guddi asked Kuldeep to run away from the spot. Thereafter Kuldeep ran away from the spot and Guddi and Hargian went inside the house while giving threats to kill them (complainant party).

3. Pursuant to the conclusion of the investigation, the challan was presented. Copies of the same were provided to the accused. Thereafter they were chargesheeted for the commission of offences under Sections 225, 332, 353, 506 read with Section 34 IPC. They pleaded not guilty and claimed trial.

4. To prove its case the prosecution examined PW-1 SI Jai Singh, PW-2 SI Ajmer, PW-3 Dr. Rajesh, PW-4 EHC Krishan Kumar, PW-5 Constable Deepak, PW-6 HC Rajbir and thereafter evidence of the prosecution was closed.

5. The accused were examined under Section 313 Cr.PC wherein they denied all the prosecution evidence come against them and pleaded innocence. However, no defence evidence was lead.

6. Based on the evidence lead, the petitioners came to be convicted and sentenced as under:-

Sr. No.	Name of Convicts	Sections	Imprisonment	Default
1	Kuldeep & Har Gian @ Gian	332 IPC	RI for 06 months with fine of Rs.500/- each	Imprisonment for 15 days
2.	Kuldeep & Har Gian @ Gian	353 IPC	RI for 06 months with fine of Rs.500/- each	Imprisonment 15 days

7. The appeal was preferred by the petitioners against the judgment of conviction and order of sentence which came to be dismissed vide judgment dated 18.04.2013 passed by Additional Sessions Judge,

Rohtak.

The aforementioned judgments are under challenge in the present revision petition.

8. The Counsel for the petitioners/accused contends that the judgment of conviction have been wrongly recorded. The independent witness of the alleged occurrence Jai Narayan, Chowkidar was not examined. It was not safe to convict the accused only on the evidence of PW-6 Constable Rajbir when even PW-Rohtash has not been examined by the prosecution. There are material discrepancies in the statements of the witnesses. PW-1 SI Jai Singh stated that Constable Ram Mehar had brought the Tehrir whereas PW-2 SI Ajmer Singh stated that Constable Krishan had brought the Tehrir. On the other hand Krishan Kumar PW-4 nowhere stated that he had brought the Tehrir to the police station. This would show that the entire proceedings have been completed by the investigating officer in the police station. It is contended that since the petitioners were poor persons and the occurrence pertains to the year 2007, they be granted the benefit of probation being first time offenders, if this court comes to the conclusion that they were not liable to be acquitted.

9. The Counsel for the State on the other hand contends that PW-Jai Narain, chowkidar had not been examined during the course of trial as he had died during the pendency of the case. The injuries on the persons of the injured have been proved by PW-3 Dr. Rajesh who had conducted the medico legal examination of Constable Rohtash (Ex.PW-3/A) and that of HC Rajbir Singh (Ex.PW-3/B). Therefore, the prosecution version cannot be doubted in any manner whatsoever. The minor contradictions in the prosecution evidence regarding the person who had taken the Tehrir to the police station is not fatal to the case of the prosecution. Such minor discrepancies are bound to occur when the deposition is recorded after sometime has elapsed.

10. I have heard learned Counsel for the parties.

11. In the present case, the prosecution case cannot be doubted. The medico legal examination of constable Rohtash and HC Rajbir was conducted by PW-3 Dr. Rajesh who has proved the MLRs in question. PW Jai Narain, Chowkidar could not examined as he had died during the pendency of the case. The minor discrepancies pointed out by the counsel

for the petitioner can in no manner prove fatal to the case of the prosecution and the testimony of the PW-6 HC Rajbir Singh is otherwise reliable and trustworthy.

12. In view of the aforementioned discussion, I find no infirmity or illegality in the well reasoned judgments passed by the courts below which are therefore upheld. Resultantly, the present revision petition is bereft of merit and the same is hereby dismissed.

13. With regard to the imposition of sentence, it may be relevant to mention here that as per the custody certificate, the petitioners have undergone a total custody of 03 months and 08 days including remissions out of their substantive sentence of 06 months. They are first time offenders. The occurrence pertains to the year 2007. Therefore the substantive sentence of the petitioners is reduced to the period already undergone by them. The fine imposed upon the petitioners already stands paid by them.

14. Disposed off.

(JASJIT SINGH BEDI)
JUDGE

January 12, 2023
Vinay

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