

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2902-2016 (O&M)
Date of Decision : 03.05.2023

Sushil Kumar and others

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Deepak Choudhary, Advocate
for the petitioners.

Mr. Surender Singh, AAG, Haryana
for the respondent-State of Haryana

VIKRAM AGGARWAL, J (ORAL)

CRM-33221-2018

Prayer in this application is for placing on record the judgment dated 04.10.2012 Annexure P-1 and exemption from filing the typed copy of the same.

Heard. For the reasons, mentioned in the application, the same is allowed subject to all just exceptions. The judgment dated 04.10.2012 Annexure P-1 is taken on record.

CRR-2902-2019

1. Custody certificates have been filed. The same are taken on record.

2. The present revision petition is directed against the judgment dated 05.08.2016, passed by the learned Addl. Sessions Judge, Fatehabad, vide which the appeal filed by the petitioners against the judgment of conviction dated 14.02.2013 and order of sentence dated 16.02.2013, passed by the Addl. Chief Judicial Magistrate, Fatehabad, whereby the petitioners were convicted and sentenced to undergo simple imprisonment for a period of 06 months each under Section 323 IPC, was dismissed.

3. The facts, in brief, are that on 25.06.2007, at about 7:30 p.m. when injured/complainant Ashwani Kumar was standing in the street in front of the house of his uncle, petitioners-accused Sushil and Pardeep came there and asked him why he was staring at them. When the complainant resisted, Sushil gave kasia (spade) blow to him which hit on his right thumb. Accused Pardeep gave him a gandasi (axe) blow which hit on the thumb of his left hand. Accused Dayal Singh gave a kasia (spade) blow to the complainant and accused Uggarsain gave a stick blow to him. On the basis of the statement of complainant, FIR was registered. After the conclusion of the investigation, final report under Section 173 Cr.P.C. was submitted. Trial started. After the conclusion of the trial, the petitioners were convicted and sentenced by the trial Court, as referred to in the preceding paragraph. The appeal filed by the petitioners against the judgment of conviction and order of sentence of the trial Court, was dismissed by the learned Addl. Sessions Judge, Fatehabad against which the present revision petition has been filed. Accused Pardeep who is not a petitioner in this revision petition was also convicted under Section 326 IPC and sentenced to undergo rigorous

imprisonment for 03 years and to pay a fine of Rs.3,000/- and in default thereof to further undergo rigorous imprisonment for 01 month.

4. At the outset, learned counsel for the petitioners has submitted that the petitioners do not wish to challenge the judgments of the Courts below on merits and only pray that their sentence be modified to that already undergone by the petitioners. Learned counsel has submitted that the alleged incident was of the year 2007. He further states that the judgment of conviction was passed in the year 2013 and appeal was dismissed in the year 2016 after which the present revision petition has been pending adjudication before this Court. He submits that the petitioners have been facing the ordeal of trial for the last 16 years. He prays that a lenient view in the matter of sentence be taken.

5. On the other hand, learned counsel representing the respondent-State of Haryana has opposed the prayer made by the learned counsel for the petitioners. It has been submitted that the petitioners inflicted injuries on the person of complainant with kasia (spade), sticks etc. and such persons do not deserve any relief.

6. I have considered the submissions made by learned counsel for the parties and have gone through the judgments passed by the learned courts below.

7. The prosecution examined 09 witnesses and was successful in proving its case against the accused beyond reasonable doubt. The judgments do not indicate any reason for this Court to interfere in the judgment of conviction and, therefore, the same is maintained. However, in so far as the sentence is concerned, the petitioners have been facing the ordeal of trial for

the last 16 years as the incident took place in the year 2007, the matter was decided by the trial Court in 2013 and by the First Appellate Court in 2016 after which the revision petition has been pending before this Court. As per the custody certificates of the petitioners, each of the petitioner has undergone total custody of 01 month and 20 days. They were convicted under Section 323 IPC only. The petitioners are not known to be previous offenders. In the considered opinion of this Court, facing the ordeal of trial for 16 years would have acted as a sufficient deterrent for the petitioners and they are not stated to have indulged in any such or other crime after the incident in question.

8. In view of the aforementioned facts and circumstances, the judgment of conviction of the petitioners under Section 323 IPC does not call for any interference and is, therefore, affirmed. However, sentence qua imprisonment is reduced to the period already undergone by them as depicted in the custody certificates placed on record today. A copy of this judgment be sent to the concerned trial Court as also the Chief Judicial Magistrate, Fatehabad for necessary action.

With the aforesaid modification, the petition stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

03.05.2023
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No