

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(242)

CRR-1946-2022 (O&M)
Date of Decision : July 18, 2023

Satish and another

.. Petitioners

Versus

State of Haryana

.. Respondent

(242-2)

CRR-2029-2022 (O&M)

Harender

.. Petitioner

Versus

State of Haryana

.. Respondent

(242-3)

CRR-1889-2022 (O&M)

Devi @ Devender

.. Petitioner

Versus

State of Haryana

.. Respondent

(242-4)

CRR-2946-2022 (O&M)

Dinesh

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Randeep Singh Dhull, Advocate and
Mr. Devender Kumar, Advocate, for the petitioners
in CRR No.1946 of 2022.

Mr. Nischal Chetanya, Advocate for
Mr. Jagdish Manchanda, Advocate, for the petitioners
in CRR Nos. 1889 and 2029 of 2022.

Mr. Balraj Gujjar, Advocate, for the petitioner
in CRR No.2946 of 2022.

Mr. Surender Singh, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, four criminal revision petitions, the details of which have been given in the heading of the order, are being decided as all the petitions involve the same question of law on similar facts and arise out of same FIR.

2. It may be noticed that FIR No.213 dated 19.12.2010, under Sections 148, 149, 379, 452, 506, 323, 325 of the IPC at Police Station Bhupani, Faridabad was registered wherein, all the petitioners were arrayed as accused.

3. As per the facts mentioned, victim Ombir son of Vijay Singh was injured in a physical assault, which was attributed to the petitioners herein. It has already come on record that as per the injury suffered by the victim, who was examined by prosecution witness No.1 Dr. Kamal Aggarwal, he had found fracture on his left ulna and left fibula. In the trial, keeping in view the evidence which came on record, the allegations were proved against the accused and all the accused i.e. petitioners herein were convicted under Section 148/149 of the IPC, Sections 323/149 of the IPC, Sections 325/149 of the IPC, Sections 452/149 of the IPC and Sections

506/149 of the IPC but were acquitted for commission of offence punishable under Section 379 IPC and after conviction, they were ordered to undergo the punishment which is as under:-

Section(s)	Punishment
148/149 IPC	One year rigorous imprisonment to convicts along with fine of Rs.250/- each and in case of default of fine, the convicts shall further undergo simple imprisonment for 10 days.
323/149 IPC	One year rigorous imprisonment for the convicts along with fine of Rs.250/- each and in case of default of fine, the convicts shall further undergo simple imprisonment for 15 days.
325/149 IPC	Two years rigorous imprisonment to convicts along with fine of Rs.1000/- each and in case of default of fine, the convicts shall further undergo simple imprisonment for 10 days.
452/149 IPC	Two years rigorous imprisonment for the convicts along with fine of Rs.1000/- each and in case of default of fine, the convicts shall further undergo simple imprisonment for 15 days.
506/149 IPC	One year rigorous imprisonment for the convicts along with fine of Rs.500/- each and in case of default of fine, the convicts shall further undergo simple imprisonment for 15 days.

4. Feeling aggrieved against the said conviction, the appeal was preferred by all the petitioners, which came to be dismissed by the Additional Sessions Judge, Faridabad vide order dated 30.08.2022 and the conviction as well as the sentence imposed upon the petitioners by the trial Court was upheld. Hence the present criminal revisions.

5. Learned counsel(s) for the petitioners have argued that no independent witness was joined so as to prove the allegations alleged by the victim, hence, the conviction of the petitioners is bad keeping in view the facts and circumstances of the present case and even the appeal has been dismissed without appreciating the said fact.

6. It may be noticed that merely that no independent witness has been joined, the conviction of the petitioners cannot be held to be bad as once the Court, keeping in view the evidence which has come on record was satisfied that the allegations alleged against the petitioners were proved, order convicting the petitioners cannot be set aside merely on the ground that despite valid evidence on record to prove the allegation, there has to be

independent witness to corroborate the same so as to hold the petitioners guilty of the allegations. Once the trial Court has detailed the facts, evidence which has come on record so as to record a finding that allegations stood proved, the argument being raised by the learned counsel for the petitioners to challenge the conviction is unsustainable, cannot be accepted.

7. Learned counsel(s) for the petitioners further argue that in the facts and circumstances of the present case where the injuries are simple in nature, the quantum of punishment imposed is disproportionate and the excessive sentence have been imposed upon them which needed to be considered by the Court below in an appeal but the lower Appellate Court has failed to appreciate the said aspect.

8. It may be noticed that there are fractures suffered by the victim. The injuries thus cannot be said to be simple in nature. Once, as per the MLR, victim suffered multiple fractures and the petitioners have been convicted under Section 325 IPC, this Court is of the view that the punishment imposed is totally proportionate to the allegations alleged and proved during the trial.

9. Learned counsel(s) for the petitioners further argue that the petitioners have already undergone approximately 10 months and 19 days of sentence out of total sentence of two years awarded hence, they be released by modifying the sentence as “already undergone”.

10. Once this Court has already opined that the sentence imposed upon the petitioners is commensurate to the allegations alleged and proved, the argument that the petitioners’ punishment should be modified to the one ‘already undergone’ cannot be accepted and hence, the said argument is accordingly rejected.

11. Learned counsel(s) for the petitioners further submits that the doctor who prepared the MLR, has not been examined whereas another doctor has been examined, who has given his testimony keeping in the view the MLR report.

12. It may be noticed that once a doctor has already been examined as PW-1 and keeping in view the MLR report already on record, he has explained as to what kind of injury has been suffered by the victim, merely that the doctor who had prepared the MLR was not examined, is not good enough to give any benefit to the petitioners to say that the victim did not suffer any injury as being contended, especially when MLR has been explained by a professional doctor.

13. Further, on being asked to point out the perversity in the order of conviction or the order passed by the lower Appellate Court, learned counsel(s) for the petitioners have not been able to point out any perversity.

14. Keeping in view the above, no ground is made out for any interference by this Court in the present criminal revisions and the same are accordingly dismissed.

CRM-35580-2022, CRM-36809-2022, CRM-34288-2022 and CRM-50393-2022

As the main criminal revision petitions have been dismissed, present applications also stand dismissed.

July 18, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No