

113/4 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 15.09.2023

(i) CRR No.2733 of 2019

Amar Singh ...Petitioner

VS.

State of Haryana and others ...Respondents

(ii) CRR No.2827 of 2019

Mahabir and another ...Petitioners

VS.

State of Haryana and others ...Respondents

(iii) CRR No.2461 of 2019

Balbir Singh ...Petitioner

VS.

State of Haryana ...Respondent

(iv) CRR No.2847 of 2019

Surender ...Petitioner

VS.

State of Haryana and others ...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. S.K.Yadav, Advocate
for the petitioners (In all petitions).

Mr. Rajinder Kumar, Deputy Advocate General, Haryana.

Mr. Ajay Gupta, Advocate
for respondents No.2 and 3-complainant.

N.S.Shekhawat J.

1. This judgment shall dispose of a batch of four petitions i.e. CRR No.2733 of 2019, titled as Amar Singh Vs. State of Haryana, CRR No.2827 of 2019 titled as Mahabir and another vs. State of Haryana and others, CRR No.2461 of 2019, titled as Balbir Singh vs. State of Haryana and CRR No.2847 of 2019 titled as Surender vs. State of Haryana and others, which have been filed against the common impugned judgment dated 05.09.2019 passed by the Court of Additional Sessions Judge, Bhiwani and the impugned judgment of conviction and order of sentence dated 05.11.2016, passed by the Court of Judicial Magistrate, 1st Class, Bhiwani, whereby the present petitioners, in all these petitions, have been convicted and sentenced as under:-

Offences	Sentence
Under Section 148 IPC	Simple imprisonment for three months each
Under Section 323 IPC	Simple imprisonment for one month each
Under Section 325 IPC	Simple imprisonment for six months and to pay a fine of Rs.500/- each. In default payment of fine, further undergo simple imprisonment for five days each.

2. All the sentences were ordered to be run concurrently.
3. The facts of the case are taken from CRR No.2733 of 2019.
4. As per the case of the prosecution, a rukka was received on 27.07.2014 by the Police Post, General Hospital, Bhiwani with regard to admission of Narain Singh son of Godha, Sandeep son of Narain Singh and Harpal son of Jagdish. On receiving the said information, ASI Ajmer Singh reached General Hospital, Bhiwani and came to know that the injured had been

already shifted to PGIMS, Rohtak for further management. On 28.07.2014, ASI Ajmer Singh again went to PGIMS, Rohtak and moved an application to the concerned doctor to know with regard to the fitness of Sandeep. However, Sandeep did not make the statement on 28.07.2014. On 29.07.2014, an application was again moved to the doctor to know the fitness of Narain Singh and Harpal, injured. On getting the fitness certificate from the doctor, the statement of Narain Singh son of Godha was recorded, who stated that on 27.07.2014, his son Sandeep had called him to inform with regard to the occurrence of quarrel between him, Harpal and Balbir, Shamsheer and Ajit etc. at Rajiv Colony Chowk. On getting the information, he went to the place of occurrence near green belt, towards Sector 23 and found that Balbir, Mahabir and Surja were beating Sandeep with lathis and iron rods. Harpal was also being beaten by Surender and Amar Singh with lathis and iron rods. When he tried to rescue his son and Harpal, Ajit, Shamsheer and Amar Singh attacked him with lathis and iron rod and due to the same, he suffered injuries on his head, right hand and right leg and he fell down on the ground. Even thereafter, he was also caused injuries by the above stated persons. They also snatched the gold chain from his neck and also took away his mobile. The complainant raised noise to save him and his nephew Rakesh son of Santu and his son-in-law Sonu Partap came and rescued them from the clutches of the accused. With these allegations, the FIR in the present case was registered.

5. Vide order dated 28.11.2019, notice of motion was issued in these petitions, restricted to the quantum of sentence imposed upon the petitioners.

Even today, learned counsel for the petitioners in all petitions submits that he

does not wish to challenge the conviction and a lenient view may be taken, while awarding the sentence to the petitioners in all these petitions. He further contends that the parties have resolved all their disputes and are living peacefully, which has not been even disputed by learned counsel appearing on behalf of the respondent/complainant also. Even though, learned counsel for the petitioners does not wish to challenge the judgment of conviction, still this Court has examined the legality of impugned judgments of conviction, whereby the petitioners have been ordered to be convicted by both the Courts below.

6. In the present case, the criminal prosecution was initiated on the basis of the statement made by PW-6 Narain Singh, who had proved his complaint Ex.PW1/A, which was submitted to the police. Even while appearing as PW-6 in the witness box, he supported the said version and his testimony was duly corroborated by the other injured, namely, PW-3 Sandeep and PW-4 Harpal. From the testimonies of the said three witnesses, it is evident that all the accused/petitioners had actively participated in the commission of the offences on 27.07.2014. Even the prosecution had examined PW-8 Sonu, son-in-law of the complainant, who had come forward to rescue all the three injured from the clutches of the accused. The testimonies of all the aforesaid four witnesses have been found to be consistent and the defence could not discredit the testimonies of the said witnesses in any manner.

7. Apart from that, the prosecution had further examined PW-4 Dr. Keshav Solanki, who proved the injuries suffered by Sandeep, Harpal and Narain Singh and had also placed on record the medical evidence in this regard. The prosecution had further examined PW-9 Dr. Sumit, who had prepared the

reports relating to Narain, Harpal and Sandeep and had categorically deposed that Sandeep had sustained fracture of his nasal bone, whereas, Harpal had sustained fracture on his left arm. He further deposed that Narain had also suffered fracture upon right forearm. Thus, the ocular version was duly corroborated by the medical evidence and both the Courts had rightly held the petitioners guilty under Sections 323, 325, 149 IPC. Apart from that, there was a civil litigation between the complainant side and the accused, and due to the said fact, the occurrence in the present case had taken place. Even otherwise, I have examined the impugned findings recorded by both the Courts below with regard to the conviction of the petitioners and the said findings are based on correct appreciation of evidence led by the parties and settled law and find no reason to deviate from the same. Consequently, the conviction of the petitioners under Sections 148, 323, 325, 149 IPC is ordered to be upheld.

8. During the course of hearing today, the custody certificates of all the petitioners have been placed on record. All the petitioners have been sentenced to undergo rigorous imprisonment for maximum period of six months. However, it is clear from the custody certificates placed on the file, all the petitioners have undergone almost 04 months and 13 days of actual sentence, whereas, Balbir Singh has undergone one month and five days of actual sentence.

9. Learned counsel for the petitioners has submitted that all the petitioners are the sole bread earners of their families and are poor and rustic villagers. Even all of them are the first offenders except Balbir Singh and Amar

son of Bir Singh. Balbir Singh is also facing a prosecution under Section 420 IPC, whereas, one criminal case was registered against Amar son of Bir Singh.

10. Even learned counsel for the respondent/complainant submitted that he has no objection in case, a lenient view is taken by this Court, while awarding the sentence. In the present case, the occurrence had taken place on 17.07.2014 and all the petitioners are facing the agony of trial/appeal for the last more than nine years. Even they are all the rustic villagers and the respondent/complainant has not raised any serious challenge to the order of sentence.

11. Thus, keeping in view the facts of the case, the sentence awarded to the present petitioners is ordered to be reduced to the period already undergone by them. However, the amount of fine is increased to Rs.8,000/- each and the petitioners are directed to deposit the enhanced amount of fine of Rs.8,000/- with the **“Punjab and Haryana High Court Bar Clerks Association”**, within a period of two months from today failing which, all the revision petitions shall be deemed to be dismissed.

12. With these modifications, all the petitions are ordered to be disposed of.

13. Pending applications, if any, are also disposed of.

14. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the petitions, in accordance with law. The trial Court record, if received, be sent back.

15.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes