

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

414

CRR-3042-2018 (O&M)
Date of decision: 01.08.2023

Santokh Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajesh Sethi and Mr. Arun Biriwal, Advocates for the petitioner

Mr. Dhruv Sihag, AAG, Haryana

AMAN CHAUDHARY, J.

1. Challenge in the present revision is to the judgment dated 23.08.2018 passed by Additional Sessions Judge, Sirsa, whereby the affirmed judgment and order dated 17.09.2014 rendered by learned trial Court vide which the petitioner was convicted and sentenced as under:

Offence U/s	Imprisonment	Fine	Default sentence
325/34 IPC	RI for 2 years	Rs.2,000/-	SI for 3 months
452/34 IPC	RI for 2 years	Rs.2,000/-	SI for 3 months

All the sentences were ordered to run concurrently.

2. The facts, which are necessary for adjudication of the present case are that when on 11.08.2021, at about 7:30 PM complainant-Balbir Singh alongwith his employee, Sonu Kumar was present at his shop, both the accused and two other persons came there. Accused Santokh Singh attacked the complainant with a baseball bat on his right wrist, whereas accused Ashok gave fist blows on his head

and face. The other two persons also gave kick and fist blows to him. He was saved from the clutches of the accused by Sonu and rushed to the Hospital. FIR No.517 dated 12.08.2010, under Sections 323, 324, 325, 452, 506, 34 IPC was registered against the accused persons at Police Station City Sirsa.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court. On finding a prima facie case, charges under Sections 323, 324, 325, 452, 506 and 34 of the IPC were framed against the accused, to which they pleaded not guilty and claimed trial.

4. The prosecution in order to bring home the guilt of the accused examined as many as 7 witnesses. On closure of the prosecution evidence, statements of the accused including the petitioner were recorded under Section 313 of the Cr.P.C.. They denied all the incriminating circumstances that appeared against them in the prosecution case and pleaded false implication by the police. In defence, they examined DW1 Jasa Singh.

5. On scrutinizing the evidence led by the parties, the trial Court convicted and sentenced the petitioner along with two other co-accused as noticed above. Being aggrieved, they filed appeal, but qua the petitioner, it was dismissed while acquitting the other two accused by Additional Sessions Judge, Sirsa vide judgment dated 23.08.2018.

6. Challenge to the aforesaid judgments and order has been made in the present revision petition.

7. Learned counsel for the petitioner, at the very outset, submits that he does not wish to challenge the judgment of conviction and prays for reducing the sentence awarded to the petitioner to the period of about 6 months already

undergone by him, on account of the mitigating circumstances of the case that, he has faced the pangs of trial since 2010, is a poor person, a patient of liver transplant, on basis of his sentence was also suspended by this Court; sole breadwinner of the family, that includes his daughter; his spouse having expired; never misused the concession of bail and not involved in any other case.

8. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the petitioner and also affirmed by the appellate Court, therefore, he prays for the dismissal of the present revision petition.

9. Heard and perused.

10. The petitioner has given up challenge to the conviction and prayed for reduction of his sentence to the period already undergone, in view of the mitigating circumstances. However, this Court still deems it appropriate to examine the same. In his deposition, complainant, who appeared as PW2, had stated that accused-Santokh Singh had inflicted a baseball bat blow on right wrist, which stood corroborated by the testimony of PW1-Dr.Kuldeep Sain, basis of which was the X-ray report Ex.PW1/A, revealing a fracture on lower part of right radius bone. Thus, the petitioner has been rightly convicted by the trial Court, as affirmed by the Appellate Court and there is no scope for any interference in the findings recorded and conclusion arrived at. As such, the conviction of the petitioner is upheld.

11. Regarding the prayer of the learned counsel for the petitioner that in view of the aforestated mitigating circumstances, the sentence of the petitioner may be reduced to the period already undergone, it is apposite to make a reference

to the judgment in **Nakhhed vs. State of U.P.**, 1998 SCC (Cri) 603, wherein the accused was convicted under Section 325 IPC, Hon'ble The Supreme Court reduced the sentence to the period already undergone by observing that that 8 years have lapsed and during the period, all the wounds of the parties have healed up and no purpose would be served to sending the accused behind bars.

12. In the case of **Surendra Nath Mohanty vs. State of Orissa**, (1999) 5 SCC 238, the accused were convicted under sections 307, 326, 325, 324 and 323 read with Section 34 IPC and sentenced to undergo RI for five years, Hon'ble The Supreme Court reduced the sentence to the period already undergone by them i.e. three months, keeping in view the fact that 10 years had elapsed after the incident.

13. In **Guman Kutrya Pawara v. State of Maharashtra**, 2006 SCC OnLine Bom 1357, the accused were convicted and sentenced under Sections 325, 436, 337, 147, 148 read with Section 149 IPC, Bombay High Court by following the law laid down by Hon'ble The Supreme Court in **Surendra Nath Mohanty** (supra), reduced to their sentence to the period already undergone by them.

14. This Court in **Baldev Singh vs. State of Haryana**, 2015 SCC Online P&H 17782, by following the dictum in **Nasir vs. State of Uttar Pradesh**, 2010 AIR (SC) 1926, and this Court in **Major Singh vs. State of Haryana**, 2013 (1) RCR (Criminal) 141 and **Jagdeep Singh @ Neetu vs. State of Punjab**, 2013 (3) Crimes 414 and considering the mitigating circumstances, reduced the sentence of the accused to the period already undergone by him. The relevant paras read thus:

“17. The accused and the complainant party have produced compromise deed which disclosed that they having buried the hatchet, have started living peacefully in the village.

18. Of course, the Court is conscious of the minimum sentence of 3 years prescribed under Section 27 of the Arms Act. The

Hon'ble Supreme Court in *Nasir v. State of Uttar Pradesh*, 2010 AIR (SC) 1926, and this Court in *Major Singh v. State of Haryana*, 2013 (1) RCR (Criminal) 141 and *Jagdeep Singh @ Neetu v. State of Punjab*, 2013 (3) Crimes 414 have taken a lenient view even in the face of minimum sentence prescribed under Section 25 of the Arms Act and reduced the sentence to the period already undergone in the special facts and circumstances of those cases.

19. Accused Baldev Singh has undergone 10 months and 26 days. Though he had intended to cause the death, he had caused injury on a non-vital part of the body. Further, he was just 26 years at the time when the occurrence took place. The occurrence had taken place in the year 2006. Sending accused Baldev Singh to jail again to undergo the unexpired portion of sentence imposed by the trial Court would definitely harm the peaceful life they had chosen to lead after burying their long enmity.

20. For all these reasons, the judgement of conviction passed by the trial Court as against accused Baldev Singh stands confirmed. But the sentence imposed on him is reduced to the period already undergone by him. The fine and the default sentence imposed by the trial Court for the offence under Section 307 IPC and Section 27 of Arms Act stand confirmed. If the fine amount is not paid within one month from the date of this judgement, accused Baldev Singh shall undergo the default sentence imposed by the trial Court for the respective offences.”

15. It is a settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

16. Reverting to the facts of the present case as regards the prayer made on behalf of the petitioner is concerned, this Court considering the mitigating circumstances and the judgments referred to above, finds that the ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by him.

17. Accordingly, while upholding the conviction of the appellants, their sentence is ordered to be reduced to the period already undergone by them.

However, the fine shall remain intact.

18. With the above modification in the order of sentence dated 20.03.2014 passed by Additional Sessions Judge, Patiala, as noted above, the criminal appeals are partly allowed.

(AMAN CHAUDHARY)
JUDGE

01.08.2023

Mehak

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No