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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-344-2000 (O&M)
Date of decision: 30.05.2024

Baljit Singh and others

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Siao, Advocate
for the petitioners.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 15.03.2000 passed by learned Additional Sessions Judge, Ludhiana, vide which, while dismissing the appeal filed by the appellants, judgment of conviction dated 03.06.1999 and order of quantum of sentence of even date passed by learned Judicial Magistrate 1st Class, Khanna, in FIR No.118 dated 27.10.1994 under Sections 323, 325, 34 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sadar, Khanna, have been upheld.
2. The petitioners were sentenced to undergo the following

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sentence:-

Name of the appellant	Offence	Imprisonment	Fine amount	In default of payment of fine
Baljit Singh	Section 325/34 of IPC	01 year R.I.	Rs.1000/-	R.I. for a period of 03 months
	Section 323/34 of IPC	06 months R.I.		
Daljit Singh	Section 325/34 of IPC	01 year R.I.	Rs.1000/-	R.I. for a period of 03 months
	Section 323/34 of IPC	06 months R.I.		
Gurdev Singh	Section 325 of IPC	01 year R.I.	Rs.1000/-	R.I. for a period of 03 months
	Section 323 of IPC	06 months R.I.		
Harjinder Singh	Section 325/34 of IPC	01 year R.I.	Rs.1000/-	R.I. for a period of 03 months
	Section 323/34 of IPC	06 months R.I.		

3. Brief facts of the case are that on 29.10.1994, MLRs bearing No.64/94, 65/94 and 63/94 were received in Police Station Sadar Khanna from Civil Hospital, Khanna pertaining to injured Bachan Singh son of Kirpal Singh and Nachhatter Kaur wife of Bachan Singh. On this, ASI Lekh Raj of said police station visited the hospital to record statements of the injured. The doctor opined injured Nachhatter Kaur unfit to make the statement and opined Bachan Singh fit to make the statement on 27.10.1994 on an application moved by the Investigating Officer ASI Lekh Raj and he recorded the statement of injured Bachan Singh. The complainant-injured stated that on 24.10.1994 at about 05.30 p.m., he along with his sons Major Singh and Baljit Singh @ Baggu went to the fields to collect the green fodder. When they were about to cross the joint tour of the well, Baljit Singh

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son of Gurdev Singh armed with *kulhari* along with his brother Daljit Singh @ Dalla and his father Gurdev Singh son of Harchand Singh came there. Daljit Singh @ Dalla exhorted his father Gurdev Singh not to let the complainant side go. Gurdev Singh and Daljit Singh were armed with *sotis*. In the meantime, Harjinder Singh @ Jinder son of Harchand Singh also reached there. Baljit Singh and his cohorts entangled with son of the complainant. When the complainant and his wife tried to disengage them, Baljit Singh gave 3-4 *kulhari* blows towards head of the complainant and he got injured and he raised his hands to save himself. Daljit Singh @ Dalla gave 2-3 *soti* blows on the back of the complainant. Harjinder Singh and Gurdev Singh gave *soti* blows to wife of the complainant, namely Nachhattar Kaur. The sons of the complainant namely Babu Singh and Major Singh rescued them. Thereafter, the complainant became unconscious. The incident occurred due to a civil dispute pertaining to some watercourse. On the basis of aforesaid statement, FIR was registered.

4. After going through the material available on record, learned trial Court convicted the petitioners vide judgement dated 03.06.1999. Thereafter, the petitioners filed an appeal before the lower appellate Court, which was dismissed vide judgment dated 15.03.2020 by upholding the judgment of learned trial Court.

5. Learned State counsel, at the outset, on instructions from HC Ranjit Singh, submits that during pendency of the present revision petition,

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petitioner No.2 Daljit Singh died on 17.12.2022, petitioner No.3 Gurdev Singh died on 29.12.2015 and petitioner No.4 died on 19.05.2021 and he has placed on record statement of village Headman recorded in this regard and the report received from Police Station Sadar Khanna, Police District Khanna and the same are taken on record. As such, present revision petition qua petitioners No.2 to 4 may be abated.

6. Registry is directed to tag the statement of village Headman and report received from Police Station Sadar Khanna, Police District Khanna at the appropriate place of the case file.

7. Learned counsel for petitioner No.1 Baljit Singh contends that he is not assailing the impugned judgment of conviction dated 03.06.1999, upheld by learned Additional Sessions Judge vide judgment dated 15.03.2020, on merits and restricts his prayer to modification of the order of quantum of sentence, to that of the sentence already undergone by petitioner No.1, as he has already undergone a period of 02 months and 28 days and is not involved in any other criminal activity.

8. Per contra, learned State counsel opposes the prayer made on behalf of petitioner No.1 Baljit Singh, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by the learned lower appellant Court and as such, he does not deserve any leniency.

9. I have heard learned counsel for the parties and perused the



record of the case with their able assistance.

10. In *Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257*, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner, in which the offence is committed, age of the accused, should be considered, while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two-Judge Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has reiterated that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

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11. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel on behalf of petitioner No.1 Baljit Singh has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

12. The FIR in the present case was lodged on 27.10.1994 and petitioner No.1 Baljit Singh has been suffering the agony of trial since the last 30 years. Since his conviction, petitioner No.1 has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 29.05.2024, petitioner No.1 Baljit Singh is not involved in any other case and has undergone actual sentence of 02 months and 28 days, out of total sentence of 03 months and 06 days in the instant case.

13. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to petitioner No.1 Baljit Singh is reduced to the period already undergone by him, as petitioners No.2 to 4 have died during pendency of the present revision petition and the same is abated qua petitioners No.2 to 4.

14. Consequently, present revision petition is disposed of in the following terms:-

- (i) The judgment dated 15.03.2000 passed by learned Additional Sessions Judge, Ludhiana, affirming the judgment of conviction

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dated 03.06.1999 is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment for one year along with default mechanism awarded to petitioner No.1 Baljit Singh is reduced to the period of sentence already undergone by him.

- (ii) The sentence of fine of an amount of Rs.1,000/- imposed upon the said petitioner by learned trial Court is increased to Rs.5,000/-. Petitioner No.1 Baljit Singh is directed to deposit the increased amount of fine in learned trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, he shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

15. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

30.05.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No