

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRA-S-2122-SB-2004 (O&M)
Date of decision: 16.01.2024

Kaka @ Nachhattar Singh and others

.....Appellants

Versus

State of Punjab

..... Respondent

CRA-S-2131-SB-2004 (O&M)

Baljit Singh

.....Appellant

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. A.P.S. Sidhu, Advocate for the appellants.

Mr. Deepak Aggarwal, Advocate
for appellant No.2 in CRA-S-2122-SB-2004.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Both these criminal appeals arising out of a common judgment, are thus being decided together.
2. Challenge in the present appeals is to the judgment/order dated 06.10.2004, passed by the learned Additional Sessions Judge, Bathinda, whereby the appellants were convicted and sentenced as under:

Amardeep Singh @ Laadi			
Offence u/s	Imprisonment	Fine	Default sentence
326 IPC	RI for three years	Rs.1000/-	RI six months
326/34 IPC	RI for two years	Rs.1000/-	RI four months
325/34 IPC	RI for one year	Rs.200/-	RI two months

324/34 IPC	RI for nine months	-	-
323 IPC	RI for six months		

Baljit Singh			
Offence u/s	Imprisonment	Fine	Default sentence
326/34 IPC	RI for two years	Rs.500/-	RI four months
326/34 IPC	RI for two years	Rs.1000/-	RI four months
325/34 IPC	RI for one year	Rs.200/-	RI two months
324/34 IPC	RI for nine months	-	-
323 IPC	RI for six months		

Kaka @ Nachhattar Singh			
Offence u/s	Imprisonment	Fine	Default sentence
326/34 IPC	RI for two years	Rs.500/-	RI four months
326/34 IPC	RI for two years	Rs.1000/-	RI four months
325 IPC	RI for one year and six months	Rs.500/-	RI four months
324/34 IPC	RI for nine months	-	-
323 IPC	RI for six months		

Dapinder Singh			
Offence u/s	Imprisonment	Fine	Default sentence
326/34 IPC	RI for two years	Rs.500/-	RI four months
326 IPC	RI for three years	Rs.1000/-	RI six months
325/34 IPC	RI for one year	Rs.200/-	RI two months
324 IPC	RI for one year	-	-
323 IPC	RI for six months		

All the sentences were ordered to run concurrently.

2. The facts as per the prosecution case are that the complainant, a student, was running a cable business with his friend Gurmeet Singh. The accused were also in the same profession. On 19.12.2002 at about 10 pm, complainant-Guriqbal Singh was going on foot towards his house, when Kaka, Dimpa, Baljit Singh, Laddi and 2-3 unknown persons caused injuries to him. To save himself from them, he raised raula, upon which they fled the spot. Thereafter,

the injured/complainant was taken to the hospital. On his statement, FIR in question was registered against the accused persons. After completion of the investigation, challan was presented, on the basis of which charges were framed, to which they all pleaded not guilty and claimed trial.

3. In order to bring home the guilt of the accused, the prosecution examined as many as 10 witnesses. On closure of the prosecution evidence, statements of the accused-appellants were recorded under Section 313 Cr.P.C. They denied all the incriminating circumstances that appeared against them in the prosecution case while pleading false implication by the police. In defence, they did not examine any witness.

4. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused as noticed in para 1.

5. Aggrieved appellants are before this Court.

6. Learned counsel for the appellants, at the very outset, give up challenge to the conviction and pray for reducing the sentence awarded to the appellants on the ground that the incident is of the year 2002, accused Nachatar Singh @ Kaka has undergone 1 month, 5 days, Amardeep Singh @ Laddi undergone 24 days, Dapinder Singh @ Dimpa undergone 1 month and 20 days and Baljit Singh undergone 13 days; are all the sole breadwinners of their respective families; never misused the concession of bail and have been facing the agony of protracted trial for the last 22 years. Reliance is placed on the judgment of this Court in **Jaspal vs. State of Punjab** 2023 (4) R.C.R. (Criminal) 608.

7. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, have rightly convicted and sentenced the appellants, therefore, prays for the dismissal of the present revision petition.

8. Heard the learned counsel on either side and perused the file.

9. The deposition of PW2-complainant Guriqbal Singh having received the injuries at the hands of the accused is fully corroborated with the medical evidence, proved by PW1 Dr. Anup Gupta and PW7 Dr. Kasturi Lal. On going through the evidence on record, the prosecution case is found well established beyond shadow of reasonable doubt. Thus, the trial Court has rightly convicted the appellants, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, the conviction of the petitioners is upheld.

10. Regarding the prayer of the learned counsel for the appellants that in view of the aforesaid mitigating circumstances, the sentence of the appellants may be reduced to the period already undergone, it is apposite to make a reference to the judgment of **Keshab Naskar vs. State**, 2012 SCC OnLine Cal 9400, wherein keeping in view that 25 long years had elapsed since the time of the incident, never misused the privilege of post-conviction bail, the sentence of imprisonment under Section 326 IPC of 6 years was reduced to the the period already undergone i.e. 14 days pre-trial and about a month and 10 days post-trial. In **Lehamber Singh vs. State of Punjab**, 2016 SCC OnLine P&H 8926, this Court had, in a case of conviction under Section 326 IPC, in consideration of the circumstances that the accused had faced the agony of protracted trial for the last more than 10 years; was a first offender; sole bread earner in the family; no antecedents of similar nature, taken a lenient view furthering the cause of justice and reduced the sentence from one year and a half to the period of one month and thirteen days, already undergone.

11. As regards, conviction under Section 325 IPC is concerned, a reference can be made to **Ram Kumar and Another vs. State of Haryana** in Criminal Appeal No.104 of 2022, decided on 19.01.2022, wherein the appellants had given lathi blows and were thus convicted under Sections 323/325, however

Hon'ble the Supreme Court while considering the fact that 14 years lapsed since

the date of incident, had reduced their sentence to the period already undergone by them i.e. six weeks out of 1 year. Further, in **Nakchhed vs. State of U.P.**, 1998 SCC (Cri) 603, the accused was convicted under Section 325 IPC, Hon'ble the Supreme Court reduced the sentence to the period already undergone out of 3 years of rigorous imprisonment, 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. Hon'ble The Supreme Court in **Manjappa vs. State of Karnataka**, (2007) 6 SCC 231, wherein the accused was convicted and sentenced under Sections 325, as he had assaulted the complainant with a stone, while observing that the appellant had undergone and had remained in custody for about 15 days as also that after the incident 10 years had passed, held that the sentence already undergone by the appellant was sufficient and adequate in the facts and circumstances of the case.

13. In **Mohamad Hanif @ Munno Hussainmiya Shaikh vs. State of Gujarat** (2019) 01 SC CK 0378 the appellant was convicted under Section 325 IPC for a sentence of imprisonment of 2 years for giving a stick blow on the head of the complainant, which was reduced to 1 year by the Appellate Court. The sentence was converted to already undergone, which was one and a half month as the incident had occurred more than 22 years back and that the injury was found to be simple in nature.

14. This Court in **Pardeep Kumar vs. State of Punjab**, CRR-340-1992 decided on 31 January 2008, where the accused was convicted under Section 325 IPC, reduced the sentence to already undergone, i.e. 16 days out of maximum punishment of 4 months of rigorous imprisonment, as the petitioner had faced the agony of trial for 19 years. Similarly in **Arjun and Others vs. State of Haryana**

in CRA-S-1134-SB-2008, decided on 07.06.2023, the sentence awarded to the accused-appellants, who were convicted under Sections 323/34, 325/34 and 506 IPC for RI of 2 years, was reduced to the extent of already undergone, while observing that the appellants had already suffered sentence of 1 month, 13 days and 15 days respectively and faced the agony of trial for almost 17 years.

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 appellants is concerned, this Court considering the judgments referred to above and the mitigating circumstances, particularly that they are the sole breadwinners of their families; suffering the ignominy of trial for the last more than two decades; prior to the alleged offence and after release on bail, have not misused such concession granted to them, finds that the ends of justice would be adequately served if the sentence of the appellants is ordered to be reduced to the period already undergone by them.

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 07.10.2004 passed by the learned Additional Sessions Judge, Bathinda, as noted above, the present appeals stands partly allowed.

19. Photocopy of the judgment be placed on the file of the connected case.

16.01.2024
Hemant

(AMAN CHAUDHARY)
JUDGE

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