

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CRA-S-1126-SB-2003 (O&M)
Date of decision : 23.01.2024

Harkirat Singh and others
.....Appellants

Versus

State of Punjab
..... Respondent

CRR-2091-2003

Gurmeet Singh
.....Petitioner

Versus

State of Punjab and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. HS Randhawa, Advocate
for the appellants in CRA-S-1126-SB-2003
for respondents No.2 to 6 in CRR-2091-2003.

Mr. Arihant Jain, Advocate,
for the petitioner in CRR-2091-2003
for the complainant in CRA-S-1126-SB-2003

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. This common order shall dispose of the above-mentioned criminal appeal and revision as these have arisen out of the same judgment/order.
2. CRA-S-1126-SB-2003 has been filed by the accused-appellants, impugning the judgment/order dated 30.05.2003, passed by the Additional Sessions Judge, Sangrur, whereby they were convicted and sentenced as under:

Offence u/s	Imprisonment	Fine	Default sentence
148 IPC	RI for one year	-	-

450 IPC	RI for two years	Rs.500	RI for six months
326 read with 149 IPC	RI for three years	Rs.1000	RI for nine months
Harkirat Singh			
326 IPC	RI for three years	Rs.1000	RI for nine months
Harchand Singh			
324 IPC	RI for one year	-	-
Harkirat Singh, Jaswinder Singh, Mohinder Pal Singh, Janak Singh and Jaswant Singh			
324 read with 149 IPC	RI for one year	-	-
Janak Singh and Jaswinder Singh			
323 IPC	RI for nine months	-	-
Harkirat Singh, Mohinder Pal Singh, Harchand Singh and Jaswant Singh			
323 read with 149 IPC	RI for nine months	-	-

All the sentences were ordered to run concurrently.

3. In CRR-2091-2003, filed by the complainant-petitioner, the challenge has been laid to the aforesaid judgment regarding discharge of the accused-respondents under Section 307 IPC.
4. Shorn of unnecessary details, the facts are that, Gurmeet Singh-complainant made a statement to the police that on 17.11.1998, when he alongwith his brother were present in the house of Gurdial Singh, all the accused-appellants came there and started abusing him. They entered the house and tried to beat them. A quarrel ensued between them and Harkirat Singh and other accused caused blows to him and his brother. On raising alarm by Gurdial Singh people gathered and accused fled the spot. Thereafter, the injured were admitted in the Civil Hospital, Sangrur. An FIR came to be registered against the accused. After investigation, challan was presented. On finding a prima facie case,

charges under Sections 148, 149, 307, 323, 324, 326 and 450 IPC were framed against them, to which they pleaded not guilty and claimed trial.

5. The prosecution in order to bring home the guilt of the accused examined as many as 10 PWs. On closure of their evidence, statements of the accused-appellants were recorded under Section 313 of 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 their defence, they examined 3 DWs.

6. The learned trial Court after evaluating the evidence led by the prosecution, convicted and sentenced the accused-appellants as noticed above.

7. Aggrieved appellants have preferred the present appeal, while the complainant, the revision petition.

8. The appeal (CRA-S-1126-SB-2003) has been abated qua appellant No.1-Harkirat Singh and appellant No.3-Jaswinder Singh vide orders dated 21.03.2023 and 02.12.2015, respectively.

9. Learned counsel for the appellant Nos. 2, 4 to 6 in CRA-S-1126-SB-2003, at the outset, submits that he gives up the challenge to the judgment of conviction and prays for reducing the sentence awarded to said appellants to the period already undergone it being 11 days on account of the fact that they are not involved in any other case; never misused the concession of bail; sole bread winners of their respective families; have been facing the agony of protracted trial for the last 25 years and appellants- Mohinder and Janak have children of marriageable age, whereas appellants- Harkirat Singh and Jaswant Singh are about about 80 years and 70 years years respectively.

10. Learned counsel for the petitioner in CRR-2091-2003 contends that the trial Court has erred in discharging the accused-appellants for the offence

under Section 307 IPC despite there being sufficient evidence. Thus, he prays for sentencing them under the said section.

11. On the other hand, learned State counsel in CRA-S-1126-SB-2003 submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellants, therefore, prays for the dismissal of the present appeal. He, however, affirms the fact of the non-involvement of the appellants in any other case as well as misusing the concession of bail granted to them as per the custody certificates.

12. Heard the learned counsel on either side and perused the record with their able assistance.

13. Evidently, PW-2 Gurmeet Singh, who was the injured-eye witness, in his deposition specifically named the appellants having caused injuries to him as well as others. His testimony stood corroborated by PW-6 Gurdial Singh. The MLRs of the injured were proved by PW1-Dr. Karamjit Singh, who opined that injuries caused to Gurmit Singh are not on vital part of the body and these are grievous in nature. No injury was found to be dangerous to life, thus, Section 307 IPC does not attract. Thus, there is no scope for interference in the findings recorded therewith and the conclusion arrived at by the trial Court. As such, the conviction of the appellants is upheld.

14. Insofar as the prayer for reducing the sentence of the petitioners to the period already undergone is concerned, it would be worthwhile to make a reference to the judgment in **Keshab Naskar vs. State**, 2012 SCC OnLine Cal 9400, wherein keeping in view that 25 long years had since elapsed from the date 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.

15. 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 had elapsed since the date of incident, 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 8 years had passed away and during this period, all the wounds of the parties have healed up and no purpose would be served to sending the accused behind bars. Similarly in **Arjun and Others vs. State of Haryana**, 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.

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

17. Humanistically viewing, the appellants having suffered the ignominy of trial since long; successfully warded off their crime-proneness-an evident learning of a lesson; their socio-economic circumstances, this Court finds extenuation to be implicit. Thus, it would serve the ends of justice to reduce their sentence to the period already undergone by them, however, keeping the fine intact.

18. With the aforesaid modification in the order of sentence dated 30.05.2003, the present appeal-CRA-S-1126-2003 stands partly allowed, whereas CRR-2091-2003 is hereby dismissed.

19. A copy of this order be placed on the file of the connected case.

23.01.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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