

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CRR-2325-2003 (O&M)
Date of decision: 20.01.2024

Ramesh Kumar and others

....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vinay Puri, Advocate for
Mr. Bikram Singh, Advocate for petitioner Nos.1 and 4.

Ms. Gurmeet Kaur, Advocate for
Mr. Rajesh Duhan, Advocate for petitioner No.2.

Ms. Amandeep Kaur, Advocate for
Mr. GS Sandhu, Advocate for petitioner No.3.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. The present revision petition has been preferred by the petitioners against judgment dated 04.11.2003 passed by learned Additional Sessions Judge, Karnal affirming the judgment of conviction by trial Court on 27.08.2002, by reducing the sentence of both the petitioners as under:

Offence u/s	Imprisonment	Fine	Default sentence
323 read with Section 34 IPC	RI for six months	-	-
324 read with Section 34 IPC	RI for one year	-	-
326 read with Section 34 IPC	RI for two years	Rs.100	RI for 15 days
506 IPC	RI for one year	-	-

All the sentences were ordered to run concurrently.

2. Briefly put, on 08.03.1998 at about 5.30 pm when complainant Inder Singh was going to purchase tobacco from village shop, on the way, accused

Ashok Kumar @ Bittu, Satish Kumar and Sultan Singh inflicted injuries to him as well as to Suraj Bhan and Dharam Pal, who later came there to save the complainant. On hearing the raula, villagers gathered, upon which the assailants fled the spot. An FIR was registered and after investigation, the challan was presented. On finding a prima facie case, charges under Sections 323/324/326/506/34 IPC were framed against the accused-petitioners, to which they pleaded not guilty and claimed trial.

3. The prosecution in order to bring home the guilt of the accused examined as many as 8 PWs. On closure of their evidence, statements of the accused-petitioners 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.

4. The trial Court after hearing the learned counsel for the parties and appreciating the evidence led, convicted and sentenced the accused-petitioners as under:

Offence u/s	Imprisonment	Fine	Default sentence
323 read with Section 34 IPC	RI for six months	-	-
324 read with Section 34 IPC	RI for one year	-	-
326 read with Section 34 IPC	RI for three years	Rs.100	RI for 15 days
506 IPC	RI for two years	-	-

5. Dissatisfied by the same, appeal was filed by the accused-petitioners, which was dismissed by learned Additional Sessions Judge, Karnal, however their sentence was reduced as noticed in para No.1.

6. Aggrieved accused-petitioners are before this Court.

7. Learned counsel for the petitioners, at the outset, in one voice give up

the challenge to the judgment of conviction and pray for reducing their sentence, to the period already undergone, it being 1 month and 7 days, on the ground that he belongs to the poor strata of the society; sole breadwinner of his family; have children of marriageable age; not involved in any other case; never misused the concession of bail and have been facing the agony of protracted trial for the last 31 years.

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 petitioners, therefore, prays for the dismissal of the present petition. He, however, is unable to controvert the non-involvement of the petitioners in any other criminal case, as per the custody certificates dated 28.04.2023.

9. Heard the learned counsel on either side and perused the record.

10. Evidently, PW-1 Inder Singh and PW-2 Dharam Pal, who were the injured, in their depositions specifically named petitioners, having caused injuries to them, which stands fully corroborated from the medical evidence. On going through the evidence on record, the prosecution case is found well established. Thus, the trial Court has rightly convicted the petitioners, as affirmed by the lower appellate Court, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, the conviction of the petitioners is upheld.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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**, 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. This Court, considering the judgments referred to above and the mitigating circumstances as pointed out by learned counsel for the petitioners, finds that the ends of justice would be adequately served if the sentence of petitioners is reduced to the period already undergone by them, while keeping the fine intact.

18. The order of sentence dated 04.11.2003 is modified to the aforesaid extent and as such, the present petition stands partly allowed.

20.01.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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