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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1909-SB-2003 (O&M)
Date of decision: 22.08.2024

Harpinder Singh and others

... Appellants

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rohit Singh, Advocate for
Mr. S.S. Dinarpur, Advocate
for the appellants.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction dated 09.10.2003 and the order of sentence of dated 10.10.2003 passed by learned Additional Sessions Judge, Fast Track Court, Ambala, in the case stemming from FIR No.103 dated 12.08.2002 under Sections 342, 332, 333, 353, 506, 34 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sadar Ambala, vide which the appellants were convicted under Sections 342, 332, 333, 342, 353, 506, 34 of IPC and were ordered to undergo rigorous imprisonment for a period of 04 years and to pay a fine of



Rs.1,600/- each along with default mechanism.

2. Brief facts of the case are that on 12.08.2002, on receiving a telephonic message that the appellants had confined one ASI and Constable in a room of their house and gave beatings to them, SI/SHO Kara Ram, Police Station Sadar Ambala along with other police officials went to house of Malkiat Singh-appellant No.3 and main gate of his house was found locked from inside and he was standing inside the house near the gate and was having a danda in his hand and appellants No.1, 2 & 4 were standing in front of the room, having dandas in their hands. SI/SHO with the help of other police officials rescued ASI Jaswant Singh and Constable Harvinder Singh. Thereafter, statement of ASI Jaswant Singh was recorded to the effect that he was posted at Police Station Sadar Ambala and on 11.08.2002, he along with Constable Harvinder Singh went to house of Malkiat Singh-appellant No.3 in connection with investigation of case bearing No.7/2002 under Section 392 of IPC, Police Station Sadar Ambala and asked him to join the investigation in the aforementioned case. Thereafter, appellant No.3 Malkiat Singh took him and Constable Harvinder Singh inside his house and appellants No.1, 2 & 4 closed the gate of the house and proclaimed to them to teach a lesson for calling him in the police station and all the four appellants gave fist and slap blows and they also gave beatings with dandas. It is further stated that the accused persons criminally intimidated them and even tore their official uniform and caused obstruction in performance of their official duty and gave injuries to them. As such, a prayer for taking



legal action against the accused persons was made.

4. The appellants were convicted vide judgement dated 09.10.2003 passed by learned trial Court and were sentenced to undergo R.I. for a period of four years.

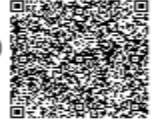
5. Learned counsel for the appellants, at the very outset, submits that during pendency of the present appeal, appellant No.4 Baru Ram passed away, therefore, present appeal qua him may be abated.

6. In view of the above, present appeal qua appellant No.4 Baru Ram stands abated.

7. Learned counsel appearing on behalf of appellants No.1 to 3 contends that he is not assailing the impugned judgment of conviction dated 09.10.2003 on merits and restricts his prayer to modification of the order of quantum of sentence dated 10.10.2003, to that of the sentence already undergone by appellants No.1 to 3, as appellant No.1 Harpinder Singh, appellant No.2 Rajinder Singh and appellant No.3 Malkiat Singh have already undergone a period of 06 months and 12 days, 06 months and 13 days and 07 months and 23 days, respectively.

8. *Per contra*, learned State counsel opposes the prayer of appellants No.1 to 3, as learned trial Court passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, appellants No.1 to 3 do 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.

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



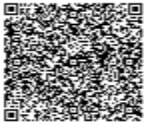
appreciation of evidence available on record. Moreover, learned counsel has not assailed the judgment of conviction on merits on behalf of appellants No.1 to 3, rather he has restricted his prayer only qua quantum of sentence, as present appeal qua appellant No.4 Baru Ram already stands abated.

12. The FIR in the present case was lodged on 12.08.2002 and appellants No.1 to 3 have been suffering the agony of trial since the last 22 years. Since their conviction, appellants No.1 to 3 have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificates dated 21.08.2024, appellants No.1 to 3 have undergone total sentence of about 07 months, out of rigorous imprisonment of 04 years, 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 appellants No.1 to 3 is reduced to the period already undergone by them.

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

- (i) The judgment dated 09.10.2003 passed by learned Additional Sessions Judge, Fast Track Court, Ambala is upheld, however, the order of sentence dated 10.10.2003 is modified to the extent that the sentence of rigorous imprisonment for 04 years along with default mechanism awarded to appellants No.1 to 3 is reduced to the period of sentence already undergone by them.
- (ii) The sentence of fine of an amount of total Rs.1,600/- imposed



upon appellants No.1 to 3 each, by learned trial Court is increased to Rs.7,000/- each. Appellants No.1 to 3 are directed to deposit the increased amount of fine in learned trial Court within a period of one month from the date of receipt of certified copy of this order and in case of default of payment of fine, appellants No.1 to 3 will 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 also stand disposed of.

22.08.2024
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[HARPREET SINGH BRAR]
JUDGE

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