

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3278-2013 (O&M)

Decided on 26.04.2024

Ajaib Singh ... Petitioner
VS.
State of Punjab & Ors. ... Respondents

CRR-3083-2013 (O&M)

Mohan Singh & Ors. ... Petitioners
VS.
State of Punjab ... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Komalpreet Kaur, Advocate and
Mr. Deepak Arora, Advocate for the petitioner
Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

(1). This order shall dispose of the above-cited two criminal revision petition being inter-related and filed by both the first informant as well as the accused against the judgment dated 05.03.2013 passed by the Appellate Court, Fatehgarh Sahib as well as the judgment passed by JMIC, Fatehgarh Sahib dated 20.01.2012. For the purpose of order, CRR-3278-2013 is treated as the lead case.

(2). This petition under Section 401 CrPC has been filed by the petitioner-first informant who is aggrieved by the judgment dated 05.03.2013 passed by the Appellate Court, Fatehgarh Sahib to the extent that the respondents No.2 to 7 be also convicted under Sections 148 & 506 IPC by upholding the judgment passed by JMIC, Fatehgarh Sahib dated 20.01.2012, in entirety.

(3). Briefly stated, the instant FIR was registered on the statement of the petitioner against respondents No.2 to 7 on the allegation that the said

respondents wanted to take forcible possession of the Pahi and were restraining the petitioner from fixing the gate as a result of which the respondents No.2 to 7 along with some outsiders attacked the petitioner and started throwing brick-bats on him and as such, the present FIR was registered under Sections 148/323/506/336/149 IPC. The trial court vide judgment dated 20.01.2012 convicted the Sohan Singh, Mohan Singh, Gurdas Singh, Rajwinder Singh, Amarjit Singh and Devinder Singh under Sections 323/506 IPC read with Section 149 IPC and Sohan Singh was convicted under Section 336 IPC and were sentenced them to undergo RI for 15 days. The respondents No.2 to 7 filed appeal before the Sessions Judge, Fatehgarh Sahib which was partly allowed vide judgment dated 05.03.2013 and the conviction of the said respondents under Sections 506/149 IPC was set aside, while maintaining their conviction under Section 323/149 IPC and that of Sohan Singh under Section 336 IPC.

(4). Learned counsel for the petitioner submits that the petitioner also filed appeal before the Sessions Judge, Fatehgarh Sahib for enhancement of sentence, however, the said appeal preferred by the petitioner was dismissed separately on the ground that the appeal filed by the petitioner for enhancement of sentence was not maintainable under Section 372 CrPC and the State alone was competent to challenge the inadequacy of the sentence.

(5). Learned senior counsel contends that it will not be appropriate to take exceptional view to the grounds for dismissal of the petitioner's appeal for inadequate punishment awarded to the respondents No.2 to 7 inasmuch as, Section 372 specifically provides that no appeal shall lie from a judgment or

order of a criminal court except as provided by the Code or by any other law which authorises an appeal.

(6). Heard learned counsel for the parties.

(7). Before delving into the merits of the case, it is apposite to read Section 372 CrPC which is reproduced hereinbelow:-

“372. No appeal to lie unless otherwise provided.

- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force. [Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]”

(8). This Court is conscious of the fact that the remedy of appeal is the creation of statute under the above mentioned provision and a reading of its proviso makes it clear that so far as victim’s right of appeal is concerned, the same is restricted to three eventualities as discussed in Section 372 CrPC. Meaning thereby there is no provision for appeal by the victim for questioning of the order of sentence.

(9). The Supreme Court in the case of **"National Commission of Women v. State of Delhi", 2010 (4) RCR (Criminal) 758** has held that the proviso inserted to Section 372 CrPC with effect from 31.12.2009 gives a limited right to the ‘victim’ to file an appeal in the High Court against any order of a Criminal Court acquitting the accused or convicting him for a lesser offence or the imposition of inadequate compensation. It does not envisage an

appeal against inadequate sentence. Therefore, the prayer for enhancement of sentence being inadequate is not tenable.

(10). Further, the scope of revisional jurisdiction under Section 402 CrPC of the Court cannot be put to use for reversing the conclusions reached at by the Courts below. The Courts should hold back to reverse the findings of the Court below unless there is manifest illegality or miscarriage of justice.

(11). Therefore, a perusal of the judgment passed by the courts below would show that the sentence awarded to respondents No.2 to 7 is sufficient and commensurate with the nature of allegations and the injuries attributed and/or inflicted by respondent No.2 to 7. It is for this reason also, this Court does not find it to be a fit case to interfere with the well-reasoned judgment passed by the appellate court.

(12). Dismissed.

26.04.2024
V.Vishal

(Sandeep Moudgil)
Judge

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |