



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3939-2013(O&M)
DATE OF DECISION: 31.07.2024

Ajmer and othersPetitioners

VERSUS

State of PunjabRespondent

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.R.S.Bajaj, Advocate,
for the petitioners.

Mr.Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 28.11.2013 passed by learned Sessions Judge, Moga vide which judgment of conviction and order of quantum of sentence dated 16.07.2011 passed by learned JMIC, Moga in FIR No.28 dated 22.05.2001, filed under Sections 452, 367, 354, 506, 248 and 149 IPC registered at Police Station Badhni Kalan has been upheld. All the petitioners were sentenced as under:

Offence	Sentence
Section 148 IPC	To undergo RI for one year and fine of Rs.500/- and in de- fault of payment of fine to further undergo RI for one month
Section 323/149 IPC	To undergo RI for six months and fine of Rs.300/- and in de- fault of payment of fine to further undergo RI for 15 days
Section 452/149 IPC	To undergo RI for two years and fine of Rs.700/- and in de- fault of payment of fine to further undergo RI for two months
Section 354/149 IPC	To undergo RI for two years and fine of Rs.700/- and in de- fault of payment of fine to further undergo RI for two months
Section 506/149 IPC	To undergo RI for six months and fine of Rs.300/- and in de- fault of payment of fine to further undergo RI for 15 days



All the sentences were ordered to run concurrently.

2. Allegations as per FIR are that on 22.05.2001, complainant Karamjit Kaur w/o Dan Singh, r/o village Baude, got recorded her statement to ASI Gurcharan Singh of Police Station Badhni Kalan to the effect that her husband had gone to Dubai about four years back and that she is having three children namely Lakhvir Kaur aged 20 years, Jasvir Singh alias Jiwan-aged 19 years and Paramjit Kaur aged 18 years. That Surjit Singh is her brother-in-law, who had gone to Dubai about six months back. That house of said Surjit Singh was adjacent to the house of the complainant. That her mother-in-law Hardial Kaur was residing with her sister-in-law Sarabjit Kaur. That cotton-ginning machine was installed in the house of the complainant. That on 22.5.2001, at about 11 AM, complainant and her two daughters were present in their house and they bolted the door of the house from inside and were Tilling the quilts with cotton and at that time Ajmer Singh s/o Malkiat Singh called them asking to open the gate of the house. That on this the complainant told him that first he should call the panchayat and further told him that if her son Jasvir Singh was at fault, he may be punished in the open panchayat. That in the meantime Ajmer Singh s/o Malkiat Singh, Sukhdev Singh s/o Malkial Singh, Inderjit Singh s/o Gurcharan Singh, Gurcharan Singh s/o Sarban Singh, Beant Singh s/o Megha Singh. Nirbhai Singh so Darshan Singh, Megha Singh s/o Malkial Singh and Jagtar Singh S/o Hari Singh, all of whom were armed with wooden-sticks, entered the house of the complainant by scaling the wall. That Gungi and Deepa both daughters of Darshan Singh, Balwant Kaur w/o Ajmer Singh, Mohinder Kaur w/o Darshan Singh, Karamjit Kaur w/o Sukhdev Singh, Meena and Gori both daughters of Ajmer Singh, Nanaki alias Jasmail Kaur w/o Jagtar Singh, Beeta d/o Raja Singh, Baljit Kaur w/o Gurcharan Singh and Kirna s/o Dan Singh, all of whom were carrying brick-bats, also entered the house of the complainant and they started beating the complainant and her two daughters. That then all the said persons took her two daughters near the crossing of Nangal road and



there they torn the clothes of her daughters. That the complainant, her mother- in-law Hardial Kaur and sister-in-law Sarabjit Kaur raised alarm, on which all the accused ran away from the spot alter giving threats to them. The motive behind the occurrence was that accused Ajmer Singh suspected that son of the complainant namely Jasvir Singh alias Jiwan was having illicit relations with his daughter. The aforesaid statement was thumb marked by the complainant in token of its correctness. On the basis of said statement of the complainant, ruqa was sent to the police station and consequently FIR was registered in this case. The police inspected the place of occurrence and prepared its rough site plan. The statements of PWS were recorded. That medico-legal examination of Paramjit Kaur and Lakhvir Kaur was got conducted in Civil Hospital, Nihal Singh Wala, on 24.5.2001. That during investigation the accused persons were arrested. On completion of investigation challan was presented against the accused persons.

3. The petitioners were convicted vide judgement dated 16.07.2011 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 28.11.2013 qua the present petitioners.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 28.11.2013 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioners as they have already undergone a period of around three months and are not involved in any other criminal activity.

5. Per contra, learned State counsel filed short affidavit of Paramjit Singh, PPS, Deputy Superintendent of Police, Nihal Singh Wala, District Moga on behalf of respondent-State alongwith Annexures R-1/T to Annexures R-5/T and on instructions from ASI Yadvender Singh submits that during the pendency of the present petition, petitioners no.1,2,5,6 and 7 had unfortunately passed away and produced their death certificates Annexures R-1/T to Annexures R-5/T, same are taken on record.



6. Further learned State counsel opposes the prayer of petitioners no.3,4 8 and 9 as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellant Court and as such, they do not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. In **Deo Narain Mandal v. 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, 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 v. 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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of



evidence available on record. Learned counsel for the petitioners no.3,4,8 and 9 has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

10. The FIR in the present case was lodged on 22.05.2001 and the petitioners no.3,4,8 and 9 have been suffering the agony of trial since the last more than twenty three years. Since their conviction, the petitioners no.3,4,8 and 9 have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificates, they are not involved in any other case and petitioners nos. 3 and 4 have undergone actual sentence of two months twenty eight days each and petitioners no.8 and 9 have undergone actual sentence of two months twenty three days each out of total sentence of two years in the instant case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

12. Consequently, the present petition is disposed of in the following terms:-

(i) The judgment dated 28.11.2013 passed by learned Sessions Judge, Moga affirming the judgment of conviction is upheld, however, the order of sentence dated 16.07.2011 is modified to the extent that the sentence of rigorous imprisonment for two years along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs.2,500/- (500+300+700+700+300) imposed upon the petitioners no.3,4,8 and 9 by the trial Court is increased to Rs.10,000/- each. The petitioners are directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioners shall be

liable to be taken into custody and made to undergo rigorous imprisonment for one month.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

31.07.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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