

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1332-2016 (O&M)
Date of Decision : 25.10.2024

KABAL SINGH AND OTHERSPetitioners

VERSUS

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Surinder Singh Virk, Advocate,
for the petitioners.

Mr. Raghav Garg, AAG, Punjab.

Mr. Ankur Mehta, Advocate,
Mr. A.S.Manaise, Advocate,
for the complainant.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioners have assailed the verdict of conviction dated 29.07.2015, and consequent thereto, order of sentence of even date, whereby, the learned Judicial Magistrate Ist Class, Fazilka (hereinafter referred to as 'the learned trial court concerned') has convicted and sentenced, in case FIR No.42, dated 10.05.2013, registered under Sections 341, 323 and 34 of the IPC, at Police Station Arniwala, which reads as under:-

Offence under Section	Simple imprisonment	Fine Rs.	SI in default of payment of fine
323 r/w 34 IPC	SI for six months each	Rs.500/- each	SI for one month each
326 r/w 34 IPC	SI for two years each	Rs.2000/- each	SI for four months each

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2. In addition, the petitioners have also assailed the verdict dated 24.02.2016, whereby, the learned Additional Sessions Judge, Fazilka, (hereinafter referred to as 'learned first appellate court concerned'), has dismissed the statutory appeal filed by them, against the verdict of conviction and order of sentence (*supra*).

3. The relevant facts, as narrated by the learned trial court concerned, in its judgment dated 29.07.2015, reads as under:-

2. Facts in brief of the present case as put forth by the prosecution are that on 10.05.2013, a wireless query was received in the police station, Arniwala regarding admission of injured Balkar Singh s/o Inder Singh caste Jat Sikh r/o V. Kandhwala Hazar Khan in the Civil Hospital, Fazilka on account of receipt of injuries, whereupon, ASI Kartar Singh, HC Ram Sarup, PHG Shivcharan Singh and PHG Jammu Ram reached police station City, Fazilka and obtained MLR no. 58/VK/2013 relating to injured Balkar Singh from the MHC. Thereafter, the police party visited Civil Hospital, Fazilka and recorded statement of Balkar Singh who stated that he is an agriculturist by profession and is a handicapped from right hand. On 09.05.2013, his water turn started from 4.35 pm to 5.53 pm and thus, he was irrigating his land through canal water. At about 5.40 pm, Kabal Singh s/o Niranjana Singh, Pargat Singh s/o Niranjana Singh and Niranjana Singh s/o Sunder Singh boarded on a cruiser vehicle came on the spot. Kabal Singh was armed with a gandasi, Pargat Singh was armed with a dang and Niranjana Singh was armed with a spade and immediately on their arrival at the spot, they started demolishing the water channel leading to the land of complainant and when he (complainant) asked the reason for demolishing the sanctioned water channel by the accused persons, then Niranjana Singh raised a lalkara asking the other accused to catch hold of the complainant and he be taught a lesson for restraining them from demolishing the water channel. Keeping in mind that he is a handicapped, the complainant tried to slip away from the spot, when the assailants waylaid him and Pargat Singh gave two continuous dang blows on right of his backside. Then Kabal Singh gave a gandasi blow from its reverse side which fell on inner side of his right leg. He fell down on the earth, when Kabal Singh gave another gandasi blow from its sharp side and when he (complainant) raised his left hand to save himself from that blow, gandasi hit in the centre of his ring and middle fingers from its sharp side. He raised alarm of mar-ditta, mar-ditta which attracted Pargat Singh s/o Gopal Singh on the spot and on seeing him, all the assailants alongwith their respective weapons boarded on their cruiser vehicle and ran away from the spot. Then his (complainant's) son Kulwinder Singh arranged for a conveyance and got him admitted in Civil Hospital, Fazilka, where he was medico legally examined. From the said statement of complainant, prima facie offences punishable

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u/ss 341, 323, 324, 34 IPC found to be made out against the accused. I.O. put his endorsement beneath the statement of complainant and sent it to the police station, which led to lodging of present FIR against the culprits. The I.O. then proceeded to the place of occurrence; prepared rough site plan and recorded statements of witnesses. On 23.05.2013, x-ray report of the injured was received, according to which injury no. 1 on the person of complainant having been caused with sharp edged weapon was found to be grievous and accordingly, offence u/s 326 IPC was enhanced. However, during investigation conducted by the senior police officials, offence u/s 326 IPC was struck off. Accused were arrested on different dates. The weapons of offence as well as the vehicle used for the commission of crime were taken into police possession vide separate recovery memos. Medical record of the injured was obtained. On completion of investigation, the challan was prepared and presented in the court.”

4. The prosecution in order to bring home the guilty of the petitioners examined as many as six witnesses. Thereupon, the learned trial court concerned, vide judgement 29.07.2015, held the petitioner guilty for commission of offences punishable under Section 323, 326 read with Section 34 IPC, whereas, they were acquitted of the offence punishable under Section 341 read with Section 34 of the IPC, and sentenced vide hereinabove extracted order of even date.

5. The petitioner remained unsuccessful in their attempt to throw challenge the aforesaid verdict, by filing the statutory appeal, as the same was also dismissed, vide judgment dated 24.02.2016.

6. This caused grievance to the present petitioners, and propelled them to file the instant revision petition.

7. A co-ordinate bench of this Court vide order dated 26.05.2016, suspended the sentence of the present petitioners, during the pendency of the instant revision petition.

8. Thereafter, on 12.03.2020, a co-ordinate bench of this Court passed the following order:-



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“Mr. Shivraj Aangi, has appeared for respondent Nos. 1 to 3 by filing vakalatnama. The same is taken on record.

The petitioners are present in the Court.

Arguments heard in part.

Learned counsel for the petitioners has contended that accused convicts Niranajan Singh is aged about 78 years, Pargat Singh is aged about 35 years and Kabal Singh is aged about 45 years and the incident took place 7 years back. They are not involved in any other criminal case thereafter. The parties belong to the same village. They are ready and willing to compensate the injured monetarily and some leniency be shown to them on the point of sentence.

Learned counsel for the injured complainant states that if adequate compensation is paid by the petitioners accused to the injured then he would not oppose the request for showing leniency to the petitioners on the point of sentence. It has been settled that the petitioners accused convicts shall pay a total sum of Rs.75,000/- to the injured complainant as compensation. Let appearance of complainant injured be caused in the Court on the next date of hearing on which date the petitioners accused shall bring the amount with them for making payment to the complainant injured and thereafter their statements may also be recorded in the Court.

Adjourned to 17.4.2020. ”

9. Since both the parties had agreed that the matter can be amicably settled, a co-ordinate bench of this Court while drawing an order dated 01.10.2024, referred the matter to the Mediation and Conciliation Centre of this Court. The efforts of the learned mediator, ripe fruit, and the matter, is now finally settled between the petitioners and the complainant, and a settlement agreement dated 16.10.2024, is executed between them.

10. The conditions of the settlement, which are mentioned in paragraph 8 of the said agreement, reads as under:-

“a) Both the parties admit that they are neighbours as their fields are located adjacent to each other and they are maintaining cordial relations amongst each other for some time now. For the peace and tranquility of the village as well as the families of the parties the respectables of the village intervened and made both of them agree to settle their dispute.

b) It is agreed/settled between the parties that a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) is being paid before the Mediation & Conciliation Centre by way of demand draft No. 000164 of HDFC Bank by the petitioners/first party to the



complainant/second party in compliance of the order of the Hon'ble High Court dated 01.10.2024. Earlier in an order passed by the Hon'ble High Court dated 12.03.2020, both the parties had settled before the Hon'ble High Court that a total sum of Rs.75,000/- shall be paid to the injured complainant as compensation. Thus this amount being one time full and final settlement of the instant dispute, the entire dispute is finally resolved between the parties for all times to come.

c) That since the entire dispute pertained to 'Nakka' of the water-course between the fields of both the parties, it is hereby agreed between them that a pucca outlet of water-course (Nakka) shall be got constructed by the petitioners/first party on or before 25.10.2024 so that no further dispute arises between the parties.

d) It has been mutually agreed between the parties that the second party/complainant shall have no objection if Criminal Revision Petition No.1332 of 2016 filed by the first party/petitioners is disposed of by the Hon'ble High Court in light of the present settlement/agreement. The second party/complainant undertakes to make a statement in the Hon'ble Court with regard to the same on the final date fixed.

e) The parties further undertake not to initiate or institute any unwanted litigation against each other and their family arising out of the matter in dispute.

f) As per knowledge of both the parties, there is no other pending litigation between the parties qua the present dispute. It has been further agreed between the parties that in case of coming into knowledge of any petition or case filed by any of the parties against other, the same shall be withdrawn by either of the party who has filed it.

g) This compromise has been arrived at between the parties without any pressure, undue influence or misrepresentation and both the parties have agreed to abide by the terms and conditions of the agreement. Both the parties shall be bound with the terms and conditions of this compromise.”

11. Learned counsel for the respondent-complainant submits that the complainant has received the total sum of Rs.75,000/-, on account of compensation, as per the agreement.

12. This Court has considered the rival submissions made by learned counsel for both the parties concerned, and has gone through the entire case file.

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13. Since the petitioners have faced agony of the trial since 2013, i.e. about 11 years, and the dispute arose between the petitioners and the complainant only on account of a water course (*Nakka*), their fields being adjacent to each other, and now the matter has finally been amicably settlement between the petitioners and the complainant, through the mediation proceedings, while entering into a settlement/agreement dated 16.10.2024, therefore, it is amenable that the matter should be given a descent burial.

14. In view of the changed and other mitigating circumstances, as recorded above, this Court deems it fit and appropriate to reduce the sentence of the petitioners to the period already undergone. The sentence of fine is ordered to remain intact.

15. Both the parties, shall remain bounds by the terms and conditions of the settlement/agreement (*supra*).

16. **Disposed of** accordingly.

17. All pending application(s), if any, also stand **disposed of** accordingly.

October 25, 2024

dharamvir

**(KULDEEP TIWARI)
JUDGE**

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No