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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No. 4191 of 2015(O&M)
Date of Decision: 13.02.2024

Gurpair Singh and others

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Grewal, Advocate
for the petitioners

Mr. H.S. Deol, Senior DAG, Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 30.09.2015 passed by learned Additional Sessions Judge, Mansa whereby the judgment of conviction and order of sentence dated 02.06.2010 passed by learned Sub Divisional Judicial Magistrate, Sardulgarh in FIR No. 117 dated 29.10.2003 under Sections 452, 326, 325, 324, 323, 34 of the IPC registered at Police Station Jhunir, was upheld. The petitioners were sentenced as under:-

Petitioner	Offence under Section	Sentence
Gurpair Singh	452 IPC	RI 1 year and a fine of Rs. 500/-, in default of which SI of 2 months
	326 IPC	RI 1 year 6 months and fine of Rs. 1500/-, in default of which SI of 3 months
	324 IPC	RI 9 months and fine of Rs 500/-, in default of which SI of 2 months
	325/34 IPC	RI 9 months and fine of Rs 500/-, in default of which SI of 2 months

Darshan Singh	452 IPC	RI 1 year and a fine of Rs. 500/-, in default of which SI of 2 months
	325 IPC	RI 1 year and a fine of Rs. 1000/-, in default of which SI of 2 months
	323 IPC	RI 6 months and a fine of Rs. 300/-, in default of which SI of 1 month
	326/34 IPC	RI 1 year and a fine of Rs. 1000/-, in default of which SI of 2 months
Suraj Singh	452 IPC	RI 1 year and a fine of Rs. 500/-, in default of which SI of 2 months
	325/34 IPC	RI 9 months and a fine of Rs. 500/-, in default of which SI of 2 months
	323 IPC	RI 6 months and a fine of Rs. 300/-, in default of which SI of 1 month
	324/34 IPC	RI 9 months and a fine of Rs. 500/-, in default of which SI of 2 months
	326/34 IPC	RI 1 year and a fine of Rs. 1000/-, in default of which SI of 2 months

FACTUAL BACKGROUND

2. Briefly, the facts are that on 28.10.2003, at about 7:00 AM, complainant-Kapoor Singh was standing in a vacant plot in front of his house, where they had stored firewood and dung cakes and talking to his son Gurbax Singh when the petitioners-accused armed with soti entered the said plot and started loading the dung cakes lying there onto a bullock cart. When the complainant and his son tried to stop them, Darshan Singh gave a kasoli blow to the complainant which hit his left ring finger, Gupair Singh gave a kasoli blow which landed on his left little finger and Suraj Singh gave a soti blow which hit the inner side of his thigh. Darshan Singh also gave a kasoli blow from its reverse side which hit the right side of his back. Gurpair Singh gave a kasoli blow which landed on the right wrist and right thigh of Gurbax Singh while Suraj Singh gave a soti blow on his right bicep. Darshan Singh also gave a kasoli blow from its reverse side which hit the right shoulder and left thigh of Gurbax

Singh. Thereafter, the complainant and his son raised hue and cry and Jagtar Singh, another son of the complainant came to the spot and all the petitioners-accused fled away from the spot along with their respective weapons.

3. The prosecution examined as many as 7 witnesses to establish its case. On finding a prima facie case, the petitioners-accused were charge-sheeted under Sections 452, 326, 325, 324, 323, 34 IPC to which they pleaded not guilty and claimed trial. The respective statement of the accused under Section 313 of the Cr.P.C. were recorded wherein they denied all the incriminating evidence put to them and claimed innocence and examined 7 witnesses in their defence.

4. On assessing the material available on record, the learned trial Court vide judgment and dated 02.06.2010 convicted and sentenced the petitioners-accused as mentioned above. Aggrieved by the judgment of conviction, the petitioners-accused preferred an appeal before the learned lower Appellate Court which was dismissed vide judgment dated 30.09.2015.

CONTENTIONS

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 02.06.2010 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioners as Gurpair Singh has already undergone a period of 8 months 10 days of custody, Darshan Singh and Suraj Singh have undergone 8 months of custody. He further submits that since their conviction, they have not been involved in any other criminal activity. Furthermore, no other case is pending against them. Learned counsel further submits that petitioners have reformed and intend to live their life as law-abiding citizens.

6. Per contra, learned State counsel opposes the prayer of the petitioners as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has been upheld by the learned lower Appellate Court and as such, they do not deserve any leniency.

OBSERVATIONS AND ANALYSIS

7. I have heard learned counsel for the parties and perused the paper-book 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. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

9. As per the custody certificate produced by the learned State counsel, details of custody period of the petitioners are tabulated as under:-

(i) Gurpair Singh

Sr No.	Particulars	Period	Duration
1.	Custody under trial	22.11.2003 to 01.12.2003	10 days
2.	Custody after conviction	30.09.2015 to 23.08.2016	10 months 24 days
3.	Parole availed		2 months 24 days
4.	Actual custody period after conviction		8 months
5.	Actual undergone period		8 months 10 days
6.	Earned remission		2 months
7.	Total sentence including remission		10 months 10 days

(ii) Darshan Singh

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	30.09.2015 to 23.08.2016	10 months 24 days
3.	Parole availed		2 months 24 days
4.	Actual custody period after conviction		8 months

5.	Actual undergone period		8 months
6.	Earned remission		2 months
7.	Total sentence including remission		10 months

(iii) Suraj Singh

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	30.09.2015 to 23.08.2016	10 months 24 days
3.	Parole availed		2 months 24 days
4.	Actual custody period after conviction		8 months
5.	Actual undergone period		8 months
6.	Earned remission		2 months
7.	Total sentence including remission		10 months

10. A perusal of the judgment of conviction passed by the learned trial Court and the learned lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Learned counsel for the petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer to quantum of sentence qua the petitioners.

CONCLUSION

11. The FIR in the present case was instituted on 29.10.2003. The petitioners have been facing protracted proceedings for about 20 years and are not involved in any other criminal activity after their conviction in the present case and during the pendency of the present revision. Since their conviction, the petitioners have grown into a law-abiding citizens and desire to live a peaceful

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life. As per their custody certificate, there are no other criminal cases pending against them. Out of the total sentence awarded of 1 year, Gurpair Singh has undergone 8 months 10 days of custody while Darshan Singh and Suraj Singh have undergone 8 months of actual custody. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment of 1 year awarded to the petitioners is reduced to the period already undergone by them.

12. Consequently, judgment dated 30.09.2015 passed by learned Additional Sessions Judge, Mansa, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 02.06.2010 is modified to the extent that that the sentence of rigorous imprisonment for 1 year awarded to the petitioners is reduced to the period of sentence already undergone by them.

Consequently, the present revision is disposed of in the following terms:-

(i) The judgment dated 30.09.2015 passed by the Additional Sessions Judge, Mansa confirming the conviction of the petitioners is upheld, however, the order of sentence dated 02.06.2010 is modified to the extent that the sentence of rigorous imprisonment for 1 year 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 a lump sum amount of Rs.3000/- imposed upon petitioner no. 1 and Rs. 2800/- upon petitioners no. 2 and 3 by the learned trial Court is increased to Rs.10,000/- each. The petitioners are directed to deposit the increased 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.

(HARPREET SINGH BRAR)
JUDGE

February 13, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No