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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2786-2017 (O&M)

Date of decision : 28.05.2024

Hardeep Singh @ Bhola and others

... Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gautam Dutt, Advocate
for the petitioner(s).

Ms. Manjot Kaur, AAG, Punjab.

Mr. Rajesh Bhateja, Advocate for the complainant(s).

MAHABIR SINGH SINDHU, J.

Present revision petition has been filed under Section 401 Cr.P.C. for setting aside judgment and order dated 21.07.2014 passed by learned Judicial Magistrate First Class, Moga, vide which trial Court convicted the petitioners under Sections 326, 323, 324, 148 read with Section 149 IPC and sentenced them to undergo rigorous imprisonment for 03 years in FIR No. 152 dated 17.09.2006, PS Sadar, Moga and also setting aside the judgment and order dated 01.08.2017 passed by learned Additional Sessions Judge, Moga in which First Appellate Court while reducing the sentence of the petitioners under Section 326 IPC to one and a half year, dismissed the appeal filed by the petitioners.

2. Brief facts of the case as stated by prosecution are that present FIR was lodged on the basis of statement of complainant-Kaur Singh on 17.09.2006. It was submitted by the complainant that on 16.9.2006, there was a congregation of villagers at the common land, cross road (chaurasta)



of village Agwar for installation of transformer in the common land of the village. Roori (heap of refuse) of petitioners party had been placed in the proximity of the transformer in question and when complainant party requested the petitioners to remove the same, they got into verbal spat with them. Thereafter, petitioners caused injuries to the complainant party by giving *gandasi* and *dah* blows.

2.1 On the basis of aforementioned statement of the complainant *ruqa* was sent and the present FIR was lodged against the accused. Investigation was conducted, visual site plans of the place of the occurrence were prepared. Statements of witnesses were recorded. Accused were arrested. After completion of the investigation, challan against above said accused was presented before the Court.

2.2 Upon appearance of the accused, they were supplied with the copies of the police report and other documents appended therewith, as per the mandatory requirement u/s 207 Cr.P.C. Finding a *prima facie* case, accused were charge sheeted for commission of offences punishable under Sections 326,324,323,148 read with Section 149 of IPC, to which accused pleaded not guilty and claimed trial.

2.3 After hearing, learned Additional Public Prosecutor and learned counsel for accused, learned trial Court convicted and sentenced the petitioners vide order dated 21.07.2014, under Sections 323, 324, 326, 148 read with Section 149 of IPC, for a period of three years with fine of Rs.500/- each.



2.4 Feeling aggrieved by the said judgment, petitioner preferred appeal before learned Appellate Court, Moga, which was dismissed while modifying the sentence as under:-

“That appellants/accused to undergo rigorous imprisonment for a period of one and a half year each instead of three year rigorous imprisonment in the offence punishable under Section 326 of Indian Penal Code and remaining sentences under Sections 324, 323, 148, 149 IPC shall remain intact.”

2.5 Still aggrieved, petitioners have preferred the present revision petition.

3. Contends that it is a case of version & cross-version. Prosecution has failed to prove its case against the petitioners beyond shadow of reasonable doubt. Further contends that both the courts below have wrongly relied upon the testimonies of PW-1-Kaur Singh and PW-2-Gurmail Singh being interested witness as PW-1 is brother of injured-Gurmail Singh. Further contended that private respondents were also accused in cross case and were facing charges under Sections 323 324, 326 read with Section 34 IPC. Also contended that both the Courts below have failed to rely upon MLRs Ex.DX and Ex.DY of the petitioners, which were duly proved by DW-2-Ram Pal Singh. Lastly contended that matter has been amicably settled between the parties i.e. petitioners as well as *de facto* complainant before the Mediation Conciliation Centre of this Court.

4. *Per contra*, learned State counsel submitted that both the Courts below have convicted the petitioners on the basis of oral and documentary evidence available on record. Further submits that testimonies of PW-1-Kaur



Singh and PW-2-Gurmail Singh have been supported by medical evidence.

5. Learned counsel for the complainant acknowledges the factum of compromise between petitioners as well as *de facto* complainant.

6. Heard learned counsel for the parties and perused paper- book.

7. This Court on 15.04.2024, passed the following order:-

“Jointly stated that parties are not averse for an amicable settlement.

If that be so, let both the sides appear before the Mediator, Mediation & Conciliation Centre of this Court on 29.04.2024 for exploring the possibility of amicable settlement, if any, and report be submitted to this Court on or before 28.05.2024.

Photocopy of this order be placed on the connected case(s).”

8. In pursuance of the aforesaid order, parties appeared before Learned Mediator and the matter has been amicably settled between the parties on the following terms and conditions:-

“(i)That the parties involved in this litigation have reached an amicable settlement through mutual consent for a total of Rs. 14,00,000/- (Rupees Fourteen Lacs only) and under which today the first party has given a sum of Rs. 2,00,000/- (Rupees Two lacs only) in cash. With regard to the remaining amount the first party has also given two post dated cheque bearing No. 724734 dated 17.05.2024 amounting to Rs. 2,50,000/- (Rupees Two Lacs and Fifty Thousand only) and Cheque No. 646253 dated 17.05.2024 amounting to Rs. 9,50,000/- (Rupees Nine Lacs and Fifty Thousand only) drawn on Punjab National Bank, Ghal Kalan (Moga) Branch having of Account No. 1905000101166439 to the second party I.e.in favour of Sukhpreet Singh son of Gurmail Singh having Bank Account No. 1905000101171264 drawn on Punjab National Bank, Ghal Kalan (Moga) Branch, today in the Mediation & Conciliation Centre of this Hon’ble Court, which have been duly received by the second party, photocopies of both the above cheques are attached herewith.

(ii) That the above cheques given by the first party should be encashed within one month from today. If this cheuques are not encashed within the stipulated time of one month due to any fault/reason of the first



party then this settlement will be considered void. Along with this, if the said cheques are dishonoured by any means, the second party will also have the right to file a complaint under Section 138 of the Negotiable Instruments Act against the first party in the competent Court of law for this act of the first party.

(iii) That this compromise will be deemed to exist when the second party receives the full & final settlement amount from the first party as per this settlement-agreement.

(iv) That through this settlement the second party also assures that first party that under this compromise, if the Hon'ble High Court acquits the first party honourably, then the second party will have no objection about it.

(v) That it is also made clear that even if the bank concerned/department release all his consequential service benefits to Gurdit Singh S/o Sh. Joginder Singh involved in this litigation like leave encashment and gratuity etc., the second party will have no objection about it.

(vi) That through this settlement-agreement, both the parties to this litigation in hand also gave undertaking that they and their families will once again re-establish brotherhood with each other, will support each other and will not have any argument/litigation with any party regarding this issue.

(vii) That along with this; both the parties of this litigation will maintain peace in the neighbourhood as well as in the village and if the atmosphere/environment of the neighbourhood gets spoiled due to wrong act of any party then this settlement will be considered cancelled/void. Moreover, for this the other party can also take legal action against such party.

(viii) That this is the full & final settlement between the parties regarding the above mentioned matters/litigation and neither party shall claim more than the current stipulated amount.

(ix) That here it is also stipulated that after this settlement, if any party refuses from the terms and condition of this settlement, then for that such party will have to pay double the settlement amount i.e. Rs. 28,00,000/- (Rupees Twenty Eight Lacs only) to the other party within one month. If the faulty party does not pay the double amount, its other party cannot only cancel this compromise/settlement but can also take legal action against that party.



(x) That neither party will violate the terms and conditions of this agreement/settlement and if any party goes out of the above terms & conditions of this settlement-agreement, the other party will have the right to take recourse of law.

(xi) That if any party of this agreement/settlement backs out of this settlement, the other party to this agreement can file a new case against such party or reopen the old case.”

9. It is pertinent to mention here that apart from the present revision against conviction and sentence, the complainant party has also challenged the judgment/order of Courts below by filing CRR-145-2018 for enhancement of the sentence of the petitioners. Still further, the judgment of learned First Appellate Court dated 21.07.2014 has also been challenged at the instance of petitioners by filing CRM-A-1474-MA-2016 (leave to appeal), whereby their complaint was dismissed. All three cases are listed today before this Court and the same have been compromised before the Mediation Centre with free consent of both sides.

10. Although, it is discernible that both sides suffered injuries, but complainant party in this case was acquitted in complaint filed by petitioners side. It appears that after facing agony of criminal proceedings for about 10 years, now both sides have realised and decided to lead peaceful life for betterment of coming generation. Also noteworthy that vide separate orders, of even date, revision for enhancement of sentence as well as leave to appeal have been withdrawn by both sides i.e. CRM-A-1474-MA-2016 and CRR-145-2018, respectively.

11. *A fortiori*, the prosecution was duty bound to explain the origins of injuries sustained by the petitioners herein, but they failed to do so.



Learned State counsel is also not able to explain this aspect of the matter; nor she has seriously opposed the compromise effected between the parties.

12. Taking into consideration the consensus arrived at between both sides and non-consideration of the MLRs of petitioners as well as the effect of PW-1 and PW-2, being accused in complaint case (although acquitted), this Court deems it appropriate to allow the present revision.

13. Consequently, revision is allowed.

14. Impugned judgments and orders dated 21.07.2014 passed by learned Judicial Magistrate First Class, Moga and dated 01.08.2017 by learned Additional Sessions Judge, Moga are hereby set aside. Conviction and sentence awarded to petitioner No.1- Hardeep Singh @ Bhola (since deceased and represented through LR's), petitioner No.2-Sukhwinder Singh, petitioner No. 3-Tejinderpal Singh and petitioner No.4-Gurdit Singh are hereby set aside and they are acquitted of the charges levelled against them. Fine paid by petitioners be refunded to them as per law. Bail bonds/surety bonds of petitioners stand discharged.

15. Parties shall be bound by the terms and conditions of the settlement noticed herein above.

16. Pending application(s), if any, shall also stand disposed off.

28.05.2024
Harish Kumar/v

(MAHABIR SINGH SINDHU)
JUDGE

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