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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR No. 2627 of 2018 (O&M)

Date of Decision:-08.02.2024

JOHARI MAL AND OTHERS

... Petitioners

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. A.K. Agnihotri, Advocate for
Mr.U.K.Agnihotri, Advocate
for the petitioners.

Mr. Dhruv Sihag, AAG Haryana.

SANJIV BERRY, J.(ORAL)

CRM-28104 of 2018

1. The instant application is for condoning the delay of 122 days
in filing of Revision Petition.

2. Heard.

3. Application is allowed and delay of 122 days in filing of
Revision Petition is hereby condoned.

Main case

By way of the present revision petition, petitioners have
challenged the impugned judgment passed by Additional Sessions Judge,
Gurugram dated 28.11.2017 whereby the appeal preferred by the petitioners

against their conviction and order of sentence dated 10.12.2015 and 11.12.2015 passed by Judicial Magistrate Ist Class, Gurugram in case FIR No. 01 dated 01.01.2013 under Section 323, 506, 34 IPC was dismissed.

2. It is *inter alia* contended by learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated in this case on the behest of the complainant in connivance with the local police. He submits that during course of trial, it is admitted fact that there was grudge on the part of the complainant with the petitioners. He contends that the learned Courts below have failed to consider the fact that alleged occurrence took place in police lockup, where it is not possible for the petitioners to have caused injuries to the complainant, he as such prays for acceptance of the petition.

3. *Per contra*, learned counsel for the State has assailed these arguments by submitting that from the well corroborated evidence adduced by the prosecution on record, it is amply proved that the petitioners have caused injuries and have rightly being convicted. He submits that although the quarrel took place in the police lockup but that does not in any manner absolve the petitioner from their criminal liability and on the other hand, it shows the daring nature of the petitioners in attacking the complainant party even in the police lockup. He contends that the judgment passed by learned Magistrate is based on correct appreciation of the facts and does not require any interference, hence he prays for dismissal of the petition.

4. Considering the rival contentions and perusing the record, it is observed that as per the case of the prosecution, on 01.01.2013 the complainant Charan Singh was returning to home in a car driven by his

friend Ramesh, when they reached near the house of the petitioners, the petitioners attacked them and started giving beatings to the complainant, both the parties went to police station where they were taken in preventive custody in the lockup and there a quarrel broke out in the lockup wherein the petitioners caused injuries to the complainant, his father Chandan Singh and friend Ramesh, on the intervention of police were rescued. The accused petitioners were arrested and after completion of investigation, challan was presented in Court. Learned Trial Court framed the charges under Section 323, 506 and 34 IPC to which the accused pleaded not guilty and claimed trial. During course of trial the prosecution has examined as many as 9 witnesses and closed the evidence. The statement of accused under Section 313 Cr.P.C were recorded and the accused examined 2 witnesses in defence. After hearing arguments and considering the evidence on record, the learned Magistrate passed judgment dated 10.12.2015 holding the petitioners guilty of having committed offence under Section 323, 506 and 34 IPC and upon hearing them on quantum of sentence proceeded to give the petitioners benefit of probation vide order dated 11.12.2015. The judgment of conviction and order of sentence were challenged in appeal by the petitioners and the learned Additional Sessions Judge dismissed the appeal vide order dated 28.11.2017.

5. The main contention of the learned counsel for the petitioners is that the learned Courts have failed to appreciate the fact that the petitioners as well as the complainant party were lodged in police lockup as such there is no occasion for such fight to take place, coupled with the fact that even learned Magistrate had observed in the judgment that the police should have

acted promptly and question mark has been raised in the role of the police while dealing with the situation, despite that false case has been planted upon the petitioners. Considering these arguments in the light of the evidence on record, it is not disputed that the alleged occurrence took place in the police lockup, in evidence there is specific testimony of the complainant that the petitioner No.3- Hansraj caught hold of him while Petitioner No.4 Monty gave fist and kick blow on his face, petitioner No.2 Lakhan gave bite on his right cheek and PW-2 Ramesh has corroborated this version and has even testified regarding petitioner No.1 Johari Mal had given fist blows and slaps to the complainant party, even P W-5 Chandan Singh has also supported this version. The prosecution has also examined PW-4 Dr. Udai Bhan to prove the medical evidence. Despite all these witnesses being subjected to lengthy cross-examination, no material discrepancy cropped up in their version so as to created doubt with regard to genuineness of their version. Even the version put forth by the complainant is corroborated by the police officials examined as witnesses. As regards the contention of learned counsel for the petitioners regarding impossibility of such occurrence could have taken place in the police lockup is concerned no merit is found in this argument because it is the unrebutted version of the prosecution that the occurrence took place in police lockup where both the parties have kept in police custody where quarrel took place between them in morning.

6. A perusal of the impugned judgments passed by learned Magistrate as well as learned Additional Sessions Judge would reveal that all the aspects raised by learned defence counsel have been duly considered

while appreciating the evidence brought on record by the prosecution and the defence. It is proven that the petitioners have caused injuries in the lockup to the complainant party and medical evidence supports the version of the complainant. No infirmity or illegality in the impugned judgments could be noticed which would call for any interference by this Court. The judgments are found to be well reasoned based on correct appreciation of the evidence, as such require no interference.

7. Resultantly, finding no merit in the petition the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

08.02.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |