



CRR-314-2018

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-314-2018

Decided on: 29.4.2024

Gurdit Singh

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE AMARJOT BHATTIPresent:- Mr. Sukhdeep Parmar, Advocate (Amicus Curiae)
for the petitioner.

Mr. Sandeep Vermani, Additional A.G. Punjab.

Mr. Vishal Rattan Lamba, Advocate
for respondent No. 2.

AMARJOT BHATTI, J.

1. Petitioner/Complainant Gurdit Singh has filed the revision petition challenging judgment dated 23.08.2017 in Criminal Appeal No. 57 dated 02.11.2013 decided by learned Additional Sessions Judge, Fatehgarh Sahib vide which criminal appeal filed under Section 52(1) of Juvenile Justice (Care and Protection of Children) Act, 2000 impugning judgment and order of sentence dated 28.09.2013 passed by Juvenile Justice Board, Fatehgarh Sahib was dismissed being not maintainable.

2. Brief facts as per prosecution case are that a wireless message was received by police on 01.09.2007 regarding admission of injured Didar Singh and Joga Singh in Government Medical College and Hospital, Sector 32, Chandigarh (for short 'GMCH-32'). It was informed that they were referred



CRR-314-2018

-2-

from Civil Hospital, Fatehgarh Sahib. ASI Karam Singh procured MLRs of both injured and reached GMCH-32 for recording statements of injured. Both injured were declared unfit to make statements and no eye witness was found present at the hospital. Thereafter, SI Sadhu Ram along with police party went to their village Bhagrana where police party met Gurdit Singh whose statement was recorded by SI Sadhu Ram. Gurdit Singh complainant stated that on 31.08.2007 at about 07:00 pm, he along with his cousins namely Didar Singh and Joga Singh had gone for feeding their cattle. Joga Singh and Didar Singh left the premises a little earlier and he was closing the gate of said premises. The electricity went off. On this, Joga Singh and Didar Singh started checking the fuse of transformer. Complainant saw Charanpal Singh, Prem Singh and Bhag Singh, all armed with *Gandasis*, Harjinder Singh @ Laddi and Harkirat Singh @ Kala (respondent No. 2), both armed with *Kulhadi* (axe) who were going towards their house. On seeing Joga Singh and Didar Singh, Prem Singh raised *lalkara* not to spare them. Charanpal Singh gave *Gandasi* blow on the head of Didar Singh. Harjinder Singh @ Laddi gave *Kulhadi* blow on the head of Joga Singh. Prem Singh gave *Gandasi* blow on the head of Joga Singh which hit on his forehead. Harkirat Singh @ Kala gave *Kulhadi* blow on the right arm of Joga Singh. He had also reached on the spot but he was pushed aside by Charanpal Singh and Bhag Singh. On alarm raised by them, Harjang Singh also reached on the spot and many people gathered there. On this, assailants fled away from the spot along with their respective weapons. All the injured were shifted to Civil Hospital, Fatehgarh Sahib and from there, they were referred to GMCH-32. The reason behind this occurrence was a dispute regarding common *batt* (boundary) in their agricultural land.

3. On this complaint, FIR No. 95 dated 01.09.2007 under Sections



CRR-314-2018

-3-

302/325/323/148/149 of Indian Penal Code, 1860 (for short 'IPC') was registered at Police Station Bassi Pathana. Investigation was started. Aforementioned assailants were arrested and weapons used in occurrence were recovered on their disclosure statements. Injured Didar Singh was admitted in Silver Oak Hospital, Mohali on 14.09.2007 and was ultimately discharged on 30.11.2007 in unconscious condition. On 26.05.2008, he was declared dead by Doctors of Silver Oak Hospital, Mohali and his postmortem was conducted from Civil Hospital, Fatehgarh Sahib. Harkirat Singh @ Kala was declared juvenile. Thereafter, on completion of investigation, inquiry report was presented before Juvenile Justice Board, Fatehgarh Sahib on 29.11.2008.

4. The child in conflict with law was supplied complete set of copies of inquiry report as provided under Section 207 of Cr.P.C. Learned Principal Magistrate, Juvenile Justice Board, Fatehgarh Sahib after hearing arguments, framed charge-sheet against child in conflict with law under Sections 302, 325, 323, 148 and 149 of IPC, which was read over and explained to him in simple language to which he pleaded not guilty and claimed trial.

5. In order to prove the facts of the case, prosecution examined Joga Singh as PW1, Gurdit Singh complainant as PW2, Dr. Kanwarjot Singh as PW3, HC Paramjit Singh as PW4, Inspector Sadhu Ram as PW5, SI Karam Singh as PW6, Dr. Sudhir Garg as PW7, Dr. Rakesh Kumar Saklani as PW8, HC Lakhbir Singh as PW9, OP Sachdeva Draftsman as PW10, Dr. Bhalinder Singh as PW11, Dr. Amandeep Singh as PW12, Dr. V.K. Batish as PW13, Dr. Jaian Singh Cheema as PW14, Dr. Rekha as PW15 and HC Hari Singh as PW16.

6. Statement of child in conflict with law was recorded under Section 313 Cr.P.C. While denying all incriminating evidence put to him, he pleaded



CRR-314-2018

-4-

innocence and false implication.

7. In defence, child in conflict with law examined Harnek Singh as DW1, Dr. Sumit Sharma as DW2 and Dr. Rupinder Bakshi as DW3.

8. After hearing arguments advanced by learned Additional Public Prosecutor for the State and learned counsel representing the child in conflict with law, child in conflict with law was convicted under Section 304 Part I, 325, 323 read with 149 of IPC and Section 148 of IPC vide judgment of conviction dated 28.09.2013 passed by learned Principal Magistrate, Juvenile Justice Board, Fatehgarh Sahib and he was ordered to perform community service at Civil Hospital, Fatehgarh Sahib for a total period of six months as detailed therein with further direction to furnish probation bonds and he was also burdened with fine of ₹10,000/- to be deposited with District Treasury. It was noted by learned Juvenile Justice Board that co-accused of child in conflict with law also stood convicted by the Court of Sessions vide judgment dated 29.04.2011.

9. Being aggrieved, Gurdit Singh complainant and others preferred appeal under Section 52(1) of Juvenile Justice (Care and Protection of Children) Act, 2000 which was dismissed being not maintainable, vide judgment dated 23.08.2017 passed by learned Additional Sessions Judge, Fatehgarh Sahib.

10. Aggrieved thereof, present criminal revision has been preferred by petitioner/complainant Gurdit Singh.

11. Learned Amicus Curiae appointed on behalf of petitioner argued that in the case in hand, learned Principal Magistrate, Juvenile Justice Board, Fatehgarh Sahib vide judgment dated 28.09.2013 held child in conflict with law guilty under Sections 304 Part I, 325, 323 read with 149 of IPC as well as



CRR-314-2018

-5-

Section 148 of IPC and he was ordered to perform community service at Civil Hospital, Fatehgarh Sahib as detailed in order of sentence and he was also burdened with fine of ₹10,000/- to be deposited with District Treasury. It was argued that there were specific serious allegations against him. In this occurrence Joga Singh was seriously injured and suffered fracture of right arm whereas Didar Singh remained under treatment for a long duration and throughout he remained unconscious and ultimately died on 26.05.2008. The ocular version was supported by medical record. While passing quantum of sentence, the Juvenile Justice Board headed by learned Principal Magistrate had failed to give any reason as to why he was not sent to Special Home for two years as provided under Section 15(1)(g) of Juvenile Justice Act nor appropriate quantum of fine was imposed upon him. There was no reason to send him for community service in Civil Hospital, Fatehgarh Sahib. Therefore, it was submitted that quantum of sentence imposed by Juvenile Justice Board, Fatehgarh Sahib vide order of sentence dated 28.09.2013 requires modification and child in conflict with law be kept in Place of Safety for maximum period along with enhanced quantum of fine as per Juvenile Justice (Care and Protection of Children) Act, 2000.

12. Learned counsel for respondent No. 2 submitted that judgment dated 28.09.2013 passed by learned Principal Magistrate, Juvenile Justice Board, Fatehgarh Sahib did not require any interference. Facts of the case, evidence on record and surrounding circumstances were duly considered and appreciated by Juvenile Justice Board. Appeal preferred by Gurdit Singh and others was rightly dismissed by learned Additional Sessions Judge, Fatehgarh Sahib by passing judgment dated 23.08.2017. Criminal revision preferred by petitioner, it was submitted, should be dismissed.



CRR-314-2018

-6-

13. We have considered the arguments advanced by learned counsel for the parties and have gone through the record carefully with their able assistance.

14. Present revision has been filed against judgment dated 23.08.2017 passed by learned Additional Sessions Judge, Fatehgarh Sahib vide which appeal preferred by Gurdit Singh and others under Section 52(1) of Juvenile Justice (Care and Protection of Children) Act, 2000 was dismissed being not maintainable in the eyes of law. However, grounds of revision indicate that findings given by Juvenile Justice Board, Fatehgarh Sahib vide judgment and order of sentence dated 28.09.2013 have been challenged vide which child in conflict with law i.e. respondent No. 2 was held guilty under sections 304 Part I, 325, 323 read with Section 149 of IPC as well as under Section 148 of IPC and he was ordered to perform community service at Civil Hospital, Fatehgarh Sahib as detailed in order of quantum of sentence dated 28.09.2013. Present criminal revision has been preferred for awarding insufficient sentence to child in conflict with law/respondent No. 2, after a lapse of more than four years. Initially, when appeal was preferred by Gurdit Singh and others, it was agitated that from evidence on record the charge framed under Section 302 of IPC was proved, thus he deserved conviction for offence of murder. During course of arguments before learned Additional Sessions Judge, Fatehgarh Sahib, learned counsel for appellants i.e. Gurdit Singh and others conceded that no appeal would lie against judgment of acquittal under Section 302 of IPC as provided under Section 52(2) of Juvenile Justice (Care and Protection of Children) Act, 2000. The findings given by learned Additional Sessions Judge in deciding the appeal vide judgment dated 23.08.2017 are not challenged in this revision.

Therefore, only stand taken by petitioner is that child in conflict with law



CRR-314-2018

-7-

should be sent to a Special Home for a period of two years and enhanced amount of fine should be imposed upon him, as sentence prescribed by Juvenile Justice Board directing child in conflict with law to perform community service in Civil Hospital, Fatehgarh Sahib is grossly inadequate.

15. As per evidence on record, respondent No. 2/child in conflict with law was armed with *Kulhari* and he was attributed *Kulhari* blow from reverse side on right arm of Joga Singh, as a result of which Joga Singh suffered fracture. Dr. Bhalinder Singh PW11 has proved the MLR of Joga Singh Ex.PW11/A and Pictorial Diagram Ex.PW11/A-1. No other blow is attributed to him. Respondent No. 2/child in conflict with law was clearly in company of other co-accused who were his family members and mature persons with respondent No. 2/child in conflict with law probably under influence of said co-accused. Thus, considering the objective of Juvenile Justice (Care and Protection of Children) Act, 2000, learned Juvenile Justice Board rightly directed child in conflict with law to perform community service at Civil Hospital, Fatehgarh Sahib, as detailed in order dated 28.09.2013. It is relevant to note, at this juncture that Section 372 Cr.P.C. provides that a victim shall have a right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation and such appeal shall lie to the court to which an appeal ordinarily lies against the order of conviction of such court. In this view of the matter, it has been rightly held by learned Additional Sessions Judge, Fatehgarh Sahib that appeal challenging the quantum of sentence is not maintainable. Therefore, apart from the fact that there is no infirmity in the sentence imposed by the Juvenile Justice Board, Fatehgarh Sahib and as upheld by the learned appellate court, Fatehgarh Sahib, challenge thereto is not



CRR-314-2018

-8-

entertainable at the instance of the complainant.

16. Learned counsel for petitioner is unable to point out any illegality, infirmity or irregularity in impugned judgments dated 28.09.2013 and 23.08.2017 passed by learned Juvenile Justice Board, Fatehgarh Sahib and learned Additional Sessions Judge, Fatehgarh Sahib, respectively, which call for any interference by this Court in exercise of revisional jurisdiction.
17. Present revision petition is, accordingly, dismissed with no order as to cost.
18. Pending application(s), if any, shall stand disposed of accordingly.

(AMARJOT BHATTI)
JUDGE

(LISA GILL)
JUDGE

29.04.2024
laliit

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