

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 20th of February, 2024

CRR No.1941 of 2019 (O&M)

Sonu @ Vinod and another

....Petitioners

Versus

State of Haryana and another

....Respondent

CRR No.1487 of 2019 (O&M)

Naveen alias Dholia

....Petitioner

Versus

State of Haryana

....Respondent

CRR No.1942 of 2019 (O&M)

Baljit alias Baljeet

....Petitioner

Versus

State of Haryana

....Respondent

CRR No.2159 of 2019 (O&M)

Amit Kumar alias Amitab

....Petitioner

Versus

State of Haryana and another

.....Respondents

CRR No.2365 of 2019 (O&M)

Bijender

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Adityya Sanghi, Advocate and
Mr. Saurabh Sharma, Advocate
for the petitioner(s) in CRR-1941-2019.

Ms. Vini Mahajan, Advocate for
Mr. Nipun Vashist, Advocate
for the petitioner in CRR-1487-2019.

Mr. Devender Arya, Advocate
for the petitioner in CRR-2159-2019.

Mr. J.P. Sharma, Advocate
for the petitioner in CRR-2365-2019.

Mr. Ramesh K. Ambavta, Asstt. Advocate General, Haryana.

Mr. Mukesh Yadav, Advocate
for the complainant/respondent No.2.

PANKAJ JAIN, J. (ORAL)

The afore-captioned revisions are directed against common judgment of conviction thus the same are being taken up together for adjudication.

2. The petitioners herein were booked in FIR No.148 dated 8th of June, 2013 registered for the offences punishable under Sections 323, 325, 341, 427 & 506 read with Section 34 IPC, at Police Station Sadar, Narnaul and stand convicted as under :

Name of the petitioner	Offence under Section	Sentence Simple Imprisonment	Fine	In default of payment of fine Simple Imprisonment
Sonu alias Vinod	323 IPC r/w 34 IPC	Six months	-	-
	325 IPC r/w 34 IPC	Five years	Rs.10,000/-	6 months
Sandeep Kumar	323 IPC r/w 34 IPC	Six months	-	-
	325 IPC r/w 34 IPC	Five years	Rs.10,000/-	6 months
	341 IPC r/w 34	One month	-	-

	IPC			
	427 IPC r/w 34 IPC	One year	-	-
	506 IPC r/w 34 IPC	One year	-	-
Naveen alias Dholiya	323 IPC r/w 34 IPC	Six months	-	-
	325 IPC r/w 34 IPC	Five years	Rs.10,000/-	6 months
	341 IPC r/w 34 IPC	One month	-	-
	427 IPC r/w 34 IPC	One year	-	-
	506 IPC r/w 34 IPC	One year	-	-
Baljit @ Baljeet	323 IPC r/w 34 IPC	Six months	-	-
	325 IPC r/w 34 IPC	Five years	Rs.10,000/-	6 months
	341 IPC r/w 34 IPC	One month	-	-
	427 IPC r/w 34 IPC	One year	-	-
	506 IPC r/w 34 IPC	One year	-	-
Amit Kumar alias Amitab	323 IPC r/w 34 IPC	Six months	-	-
	325 IPC r/w 34 IPC	Five years	Rs.10,000/-	6 months
	341 IPC r/w 34 IPC	One month	-	-
	427 IPC r/w 34 IPC	One year	-	-
	506 IPC r/w 34 IPC	One year	-	-

Bijender	323 IPC r/w 34 IPC	Six months	-	-
	325 IPC r/w 34 IPC	Five years	Rs.10,000/-	6 months
	341 IPC r/w 34 IPC	One month	-	-
	427 IPC r/w 34 IPC	One year	-	-
	506 IPC r/w 34 IPC	One year	-	-

3. So far as the finding of guilt is concerned, counsels for the petitioners have not been able to point out any glaring error of law in the impugned judgments that can persuade this Court to exercise revisional jurisdiction under Section 401 Cr.P.C.

4. Counsels pray for reduction in sentence.

5. The present case involves brutal beating of the victim Rajbir. The motive is that the victim gave an information regarding illegal liquor business of the accused to the police. Custody certificates of the petitioners have been produced which show that all of them are either facing more cases involving similar allegations or are prior convicts. Petitioner Bijender son of Satbbir @ Dedha Ram is facing FIR No.21/2014 registered for the offences punishable under Sections 143, 323, 325, 341, 427 of IPC and Section 3/25 of Arms Act at Police Station Pachari Kalan, Jhunjhunu. Petitioner Sandeep son of Chander Bhan is also facing two more FIRs i.e. FIR No.21/2014 registered for the offences punishable under Sections 143, 323, 325, 341, 427 of IPC and Section 3/25 of Arms Act at Police Station Pachari Kalan,

Jhunjhunu and FIR No.144/2017 registered for the offences punishable under Sections 34, 435 IPC at Police Station Pachari Kalan, Jhunjhunu. Petitioner Baljit @ Baljeet son of Dharampal is a prior convict under Section 302 IPC and petitioner Amit Kumar @ Amitab son of Vijay Singh is also facing two more FIRs which shows that all of them are persons of criminal antecedents.

6. Sentencing is a vital part of criminal justice system. Supreme Court in the case of **State of Himachal Pradesh vs. Nirmala Devi (2017) 7 SCC 262** observed as under:

“18. The offences for which the respondent is convicted prescribe maximum imprisonment and there is no provision for minimum imprisonment. Thus, there is a wide discretion given to the Court to impose any imprisonment which may be from one day (or even till the rising of the court) to ten years/life. However, at the same time, the judicial discretion which has been conferred upon the Court, has to be exercised in a fair manner keeping in view the well established judicial principles which have been laid down from time to time, the prime consideration being reason and fair play. xxx”

7. Further after discussing various precedents, Court formulated following principles :

“(i) Imprisonment is one of the methods used to handle the convicts in such a way to protect and prevent them to commit further crimes for a specific period of time and also to prevent others from committing crime on them out of vengeance. The concept of punishing the criminals by imprisonment has recently been changed to treatment and rehabilitation with a view to modify the criminal tendency among them.

(ii) There are many philosophies behind such sentencing justifying these penal consequences. The philosophical/jurisprudential justification can be retribution, incapacitation, specific deterrence, general deterrence, rehabilitation, or restoration. Any of the above or a combination thereof can be the goal of sentencing.

(iii) Notwithstanding the above theories of punishment, when it comes to sentencing a person for committing a heinous crime, the deterrence theory as a rationale for punishing the offender becomes more relevant. In such cases, the role of mercy, forgiveness and compassion becomes secondary.

(iv) In such cases where the deterrence theory has to prevail, while determining the quantum of sentence, discretion lies with the Court. While exercising such a discretion, the Court has to govern itself by reason and fair play, and discretion is not to be exercised according to whim and caprice. It is the duty of the Court to impose adequate sentence, for one of the purposes of imposition of requisite sentence is protection of the society and a legitimate response to the collective conscience.

(v) While considering as to what would be the appropriate quantum of imprisonment, the Court is empowered to take into consideration mitigating circumstances, as well as aggravating circumstances.”

8. In the present case, the victim was brutally assaulted by the petitioners for having disclosed their illegal activities to the police. Almost all of them have been booked for other offences in separate FIRs, thus they have shown no signs of reformation.

9. The maximum punishment prescribed under law for offence punishable under Section 325 IPC is 7 years imprisonment alongwith fine.

The Courts below have awarded them that of 5 years R.I. This Court does not find any reason to interfere in the order of sentence as the same cannot be said to be disproportionate to the guilt of the petitioners. Resultantly, the instant petitions are dismissed.

10. A copy of this order be kept on the files of other connected cases.

February 20, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No