

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-3245-2019(O&M)

Date of Decision:-21.03.2024

Bhim & Anr.

.....Petitioners.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ashit Malik, Advocate for the Petitioners.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioners-accused against the judgment dated 28.11.2019 passed by the Additional Sessions Judge, Jind whereby the judgment of conviction dated 15.07.2016 and order of sentence dated 18.07.2016 passed by Judicial Magistrate Ist Class, Safidon has been upheld.

2. The brief facts of the case are that the FIR No.176 dated 27.08.2014 came to be registered on the statement of Jaswant who alleged that on 24.08.2014 while he along with his son Sukhbir were returning home from their fields and reached near the house of Bhira son of Suraj Mal then Bhim (petitioner no.1) gave a lathi blow on his head and he fell down after which Ishwar (petitioner no.2), his wife and wife of Kala Fouji also caused injuries to him. The motive behind the assault was that he (complainant) had demanded back Rs.28,600/- from Bhim which he had

given to him on interest.

3. On conclusion of the investigation the report under Section 173(2) Cr.PC was submitted under Sections 323, 341, 506 and 34 IPC against the petitioners. However, Krishana wife of Ishwar (petitioner no.2) and Munesh wife of Vinod @ Kala were found innocent and were placed in column no.2. Both the petitioners faced trial and vide judgment dated 15.07.2016/18.07.2016 were convicted and sentenced by the court of Judicial Magistrate Ist Class, Safidon as under:-

Sr. No.	Offences under Section	Imprisonment	Fine	In default of fine imprisonment
1.	Section 323 IPC	RI for 06 months each	Rs.1000/- each	SI for Two Months each
2.	Section 341 IPC	RI for 01 Month each	—	—
3.	Section 506 IPC	RI for 06 Months each		

All the aforesaid sentences were ordered to run concurrently.

4. Both the convicted accused preferred an appeal bearing Criminal Appeal No.102-A of 10.08.2016/06.04.2019 before the Court of Additional Sessions Judge, Jind, which came to be dismissed vide judgment deated 28.11.2019.

5. The aforementioned judgments are under challenge in the present revision petition.

6. The Counsel for the petitioners contend that there is an unexplained delay in the registration of the FIR. The occurrence allegedly took place at 7.30 on 24.08.2014 but the FIR was got recorded at 6.00 pm on 27.08.2014. The presence of Sukhbir Singh son of the injured Jaswant at the spot at the time of the occurrence was doubtful as he did not try to rescue his father nor did he suffer any injury. The medico legal examination of injured-Jaswant had taken place after a delay of more than 04 hours

which was suggestive of the fact that Jaswant had suffered injuries on the hands of unknown assailants. Bhira son of Suraj Mal near whose house the occurrence had taken place has not been examined as a witness. There were other material improvements, discrepancies and contradictions in the statements of the witnesses because of which the judgments of conviction in the Trial Court and lower Appellate Court were liable to be set aside and the petitioners ought to be acquitted of the charges framed against them.

7. The Counsel for the State has placed on record custody certificates dated 20.03.2024 of both the petitioners as per which petitioners have undergone a total custody period of 03 months and 24 days out of the awarded sentence of 06 months. He contends that the offences stood established against the petitioners beyond reasonable doubt. No fault can be found with the judgments of the Trial Court and the lower Appellate Court and, therefore, the present revision petition was liable to be dismissed.

8. I have heard learned Counsel for the parties.

9. The star prosecution witness complainant PW-2 Jaswant has fully reiterated the contents of his complaint Ex.PW-2/A. He has described in detail the manner in which the occurrence took place and how his medical examination was conducted. Dr. Bhupinder Singh, M.O.G.H. Jind has been examined as PW-3 and has categorically stated in his crosss examination that the injuries suffered by the injured could not be self inflicted. Sukhbir, was examined as PW-4 and has fully supported the case of the prosecution. The police officials have also explained as to why there was some delay in recording the statement of the injured as he had initially been declared unfit. Merely, because one independent witness namely Bhira son of Suraj Mal had not been examined does not falsify the prosecution case in its entirety.

10. In view of the above discussion, I find no ground to interfere

with the well reasoned judgments of conviction and order of sentence recorded by the Judicial Magistrate Ist Class, Safidon which have been upheld by Additional Sessions Judge, Jind. Resultantly, the revision petition stands dismissed.

11. As regards the quantum of sentence, it may be pertinent to mention here that the FIR was registered in August 2014 and more than 09 years have elapsed ever since. The petitioners are first time offenders with no other case registered against them. Therefore while upholding their conviction, I deem it appropriate to reduce their sentence to the period already undergone by them.

12. The revision petition stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

March 21, 2024
Vinay

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