



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230

CRR-287-2012 (O&M)
Date of decision: 25.05.2026

RAKESH KUMAR AND OTHERSPetitioners

VERSUS

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Rohit Kumar, Advocate
for the petitioners.

Mr. Mohit Kapoor, Senior DAG, Punjab.

VINOD S. BHARDWAJ. J.(Oral)

The present revision petition has been preferred against the judgment of conviction and order of sentence dated 10.07.2010, passed by the Judicial Magistrate 1st Class, Malout, in Criminal Case bearing No. 355 dated 06.12.2004 whereby the petitioner has been convicted in case arising out of FIR No.169 dated 02.07.2004 registered under Sections 326/324/323/34 of the IPC at Police Station, Sadar Malout and sentenced as under:

Sr. No.	Name of convict	Under Section	Sentence
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1.	Rakesh Kumar	326 IPC	To undergo rigorous imprisonment for 2 ½ years and to pay fine of Rs. 500/- and in default of payment of fine to undergo simple imprisonment for 15 days.
2.	Prem Kumar	326/34 IPC	To undergo rigorous imprisonment for 2 ½ years and to pay fine of Rs. 500/- and in default of payment of fine to undergo simple imprisonment for 15 days.
3.	Rakesh Kumar	324 IPC	To undergo Rigorous imprisonment for one year.
4.	Prem Kumar	324/34 IPC	To undergo Rigorous imprisonment for one year.
5.	Prem Kumar	323 IPC	To undergo Rigorous imprisonment for 06 months.
6.	Rakesh Kumar	323/34 IPC	To undergo Rigorous imprisonment for 06 months.

Challenge is also to the judgment dated 01.12.2011 passed by the Additional Sessions Judge, Sri Muktsar Sahib, in Criminal Appeal No. 46 dated 25.08.2010 whereby the appeal against the judgment of conviction and order of sentence dated 10.07.2010 was dismissed.

2. Briefly stated, the prosecution case is that on 02.07.2004, complainant Jagdev Ram son of Munshi Ram, resident of Village Bodiwala, got his statement recorded before ASI Paramjit Singh to the effect that for the preceding about one and a half years, he had been

running a barber shop at Village Aspalan and used to travel daily on his bicycle between his village and the place of work. It was alleged that on 30.06.2004, after closing his barber shop in the evening, the complainant was returning from Village Aspalan to Village Bodiwala on his bicycle. When he had reached at a distance of approximately one kilometer from his village, accused Rakesh Kumar son of Shri Chand and Prem Kumar son of Jeeta Ram, both residents of Village Bodiwala, arrived there on a scooter bearing registration No. 2680 and intercepted him.

3. According to the complainant, after stopping him on the way, accused Prem Kumar threw a chain around his neck and proclaimed that they would kill him as he used to abuse them regularly. Thereafter, accused Rakesh Kumar inflicted two kappa blows upon the complainant on his back and head. It was further alleged that when the complainant attempted to escape from the spot, accused Prem Kumar struck him with the chain on his right shoulder and caught hold of him, while accused Rakesh Kumar continued to inflict repeated blows with the kappa. The complainant further stated that in an attempt to save himself, he raised both his arms, as a result whereof injuries were caused on the elbows of both his hands.

4. According to the prosecution, upon the complainant raising alarm, the headlights of a jeep coming from the side of Village Bodiwala fell towards the place of occurrence, whereupon both the accused fled away from the spot on the scooter along with their respective weapons. It is further the case of the prosecution that after some time, Jagseer Kumar son of Mangat Ram and Hans Raj son of Moola Ram reached the place of

occurrence and shifted the injured complainant to his house. Thereafter, the father of the complainant arranged a vehicle and got him admitted to Civil Hospital, Alamwala for medical treatment.

5. On the basis of the aforesaid statement made by the complainant, the present FIR was registered. Subsequently, upon receipt of the X-ray report indicating grievous injury, offence punishable under Section 326 IPC was added in the case. During the course of investigation, the accused persons were arrested and the weapons of offence were recovered.

6. After completion of the investigation, the final report under Section 173 Cr.P.C. against the petitioners-accused and documents were supplied to the accused-petitioner free of cost.

7. Finding a prima facie case having been made out, the petitioners was charge-sheeted for the commission of offences punishable under Sections 326/324/323/34 of the Indian Penal Code, 1860 and the contents of the same were read over the and explained to the accused, to which they pleaded not guilty and claimed trial.

8. In support of its case, the prosecution examined the following witnesses and thereafter the evidence was closed by order:

PW-1	Dr. Amarpreet Singh
PW-2	Complainant Jagdev Ram
PW-3	Jagsir Ram Eye Witness
PW-3	Munshi Ram

PW-4	ASI Paramjit Singh
PW-5	Dr. S.S. Malhi of Malhi Hospital, Malout

9. The entire evidence was put to the petitioners and their statement under Section 313 Cr. P.C. was recorded. They denied the same and pleaded false innocence.

10. On consideration of the evidence on record and hearing the parties, the petitioners was convicted by the Judicial Magistrate 1st Class, Malout vide judgment of conviction and order of sentence dated 10.07.2010 and sentenced as mentioned above. Appeal against the order of conviction & sentence was also dismissed by the Additional Sessions Judge, Sri Muktsar Sahib vide judgment dated 01.12.2011. Hence, the present petition.

11. Learned counsel appearing on behalf of the petitioners fairly submits that the victim expired during the pendency of the proceedings, and that the convicts have now entered into a compromise with the father of the victim. Since complainant Jagdev Ram had passed away. Affidavit of Munshi Ram is taken on record as 'Mark A'. The petitioners do not intend to assail or challenge the findings of conviction recorded by the Courts below on merits. It is contended that the petitioners accept the verdict of guilt and confine the present challenge solely to the quantum of sentence imposed upon them. The following mitigating circumstances have been pointed out:

a. The occurrence in question pertains to the year 2004 and nearly 22 years old have elapsed since the registration of the case.

- b. The petitioners have faced the rigors, anxiety and mental agony of protracted criminal proceedings for nearly 22 years, which itself constitutes a significant mitigating circumstance while considering the question of sentence.
- c. The petitioners do not seek to challenge the conviction on merits and confines the prayer only to reduction of sentence, thereby reflecting acceptance of the verdict. As against the sentence of 2 ½ years, they have already undergone an actual sentence of more than one year.
- d. There is no allegation or material on record to indicate that the petitioners have been involved in any other criminal case, either prior to or subsequent to the present occurrence.
- e. The absence of any criminal antecedents or subsequent involvement in similar offences indicates that the petitioners has reformed themselves and has successfully reintegrated into the mainstream of society.
- f. The conduct of the petitioners during the pendency of proceedings has remained satisfactory and there is nothing on record suggestive of misuse of concession of bail or any attempt to evade the process of law.
- g. The prolonged pendency of the proceedings itself has operated as a substantial punitive factor and the petitioners have remained under continuous psychological and social stress owing to the criminal prosecution.
- h. The penal consequences imposed upon the petitioners, in the peculiar facts and circumstances of the present case, deserve to be moderated so as to balance the ends of justice with the principles of

proportionality and reformatory sentencing.

12. I have heard learned counsel for the petitioner and has gone through the case record.

13. Since learned counsel for the petitioners has expressly confined the challenge only to the quantum of sentence and has not assailed the findings of conviction recorded by the Courts below and also the fact that during the pendency of the proceedings the convicts have now entered into a compromise with the father of the victim, this Court does not deem it necessary to reappreciate the evidence or examine the matter on merits with regard to the culpability of the petitioners. The present petition is, therefore, being considered only to the limited extent of examining whether, in the facts and circumstances of the case and in light of the mitigating factors pointed out on behalf of the petitioner, any indulgence is warranted on the aspect of sentence.

14. This Court, in CRR-2697-2025 titled ***Lakshay Jain v. State of Punjab & Another***, vide order dated 14.11.2025, has held that sentencing must prioritise a reformatory approach, assessing an offender's background and circumstances rather than adopting a purely punitive stance. Mere involvement in an offence does not, by itself, establish criminality; instead, the totality of circumstances including the manner of the act, antecedents, conduct, and intent must guide sentencing. The law, therefore, distinguishes between errors of judgment and acts driven by deliberate mens rea, recognising that offenders are often capable of reform and should not be presumed beyond rehabilitation. The relevant extract of the aforesaid judgment are as follows:

32. *The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work “Criminology,” observed that:*

“If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world.”

33. *Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying*

premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

34. *While 'retributive' object of sentencing is seen regressive, in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach examines the circumstances surrounding the offender on social, economical, physical and psychological level so as to reintegrate the offender in the social mainstream. The law extends the benefit of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a 'criminal' and an 'offender'.*

35. *While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a 'criminal.' 'Criminality' in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of*

commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the offences arise due to human error or that stem from actions propelled by mens rea.

15. Having heard learned counsel for the petitioner and keeping in view the fact that the occurrence pertains to the year 2004; that the petitioners have already undergone substantial part of the substantive sentence i.e. more than one year against the sentence of 2 ½ years, that they have faced the agony and rigours of protracted criminal proceedings for nearly 22 years; that they are not shown to be involved in any other criminal case; that their conduct during the pendency of proceedings has remained satisfactory and further considering that the petitioners have not challenged the conviction on merits and has confined their prayer only to the question of sentence, this Court is of the view that the case warrants adoption of a compassionate and reformatory approach in the matter of sentencing. The cumulative effect of the aforesaid mitigating circumstances persuades this Court to hold that the ends of justice would be adequately served by suitably modifying the sentence imposed upon the petitioners.

16. In the totality of the circumstances, I am satisfied that adequate and compelling mitigating factors exist which justify interference with the quantum of sentence. The peculiar facts of the present case, as noticed hereinabove, clearly make out a case for reduction of the sentence to the period already undergone, as any further incarceration would not serve the ends of justice.

17. Accordingly, I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded to the petitioners for commission of offenses under Sections 326/324/323/34 of the Indian Penal Code, 1860 by the Judicial Magistrate 1st Class, Malout vide order dated 10.07.2010 and affirmed by the Additional Sessions Judge, Sri Muktsar Sahib vide judgment dated 01.12.2011, is modified and reduced to the period already undergone by them.

18. All the pending miscellaneous application(s), if any, are also disposed of.

MAY 25, 2026
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No