
(2001) 01 P&H CK 0135
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 779 of 2000

Dilbag Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 24-01-2001

Acts Referred:

Constitution of India, 1950 — Article 21
Penal Code, 1860 (IPC) — Section 325, 34

Citation : (2001) 2 RCR(Criminal) 442

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : Mr. Virender Singh, for the Appellant; Mr. Rajesh Bhardwaj, Assistant Advocate General, for the Respondent

Judgement

Amar Dutt, J.—This order will dispose of Criminal Revision Nos. 779 and 894 of 2000 filed by Dilbag Singh and Bishamber respectively to challenge the conviction recorded against them by the Chief Judicial Magistrate, Rohtak and the Additional Sessions Judge, Rohtak while upholding the conviction modified the sentence.

2. Dharam Singh-complainant, who is a resident of village Maynahad taken a contract for removal of debris of an old house and for that purpose he had hired a tractor trolley of Lambardar Bhima. On 29.8.1992 when he was making the fourth trip, Dilbagh, Chander Pal and Bishamber reached the place from where he was removing the debris and questioned him regarding why he is picking up the bricks. They had also threatened to teach him a lesson and in execution of the threat they had started beating the complainant with fists and kicks. The complainant was rescued at the intervention of Bhima and after the completion of the medical examination of Dharam Singh on 30.8.1992, ruqa was sent by the Doctor to the police. On receipt of the ruqa, ASI Rama Nand made an entry in the DDK, recorded the statement of the complainant and got him referred to the M.C.H., Rohtak for x-ray examination, the report of which indicated that the

patient had suffered fracture of the 8th, 9th and 10th ribs. After completing the investigation, during the course whereof he apprehended the assailants, the challan was put in the Court, charge was framed and six witnesses were examined. The statements of the assailants were recorded in which they pleaded innocence and asserted that they have been falsely implicated. After hearing the arguments, the trial Court convicted and sentenced all the three accused for three years rigorous imprisonment and to pay a fine of Rs. 2,000/- each and in default of the payment of fine to further undergo rigorous imprisonment for two months. In appeal, the benefit of probation was extended to 80 years old Chander Pal but the prayer on behalf of the petitioners that they be sentenced in the same manner as is Chander Pal sentenced was rejected. However, the sentence was reduced to 2 years rigorous imprisonment and the fine already deposited by the petitioners was directed to be treated as compensation payable to the injured. Hence, the revision.

3. On behalf of the petitioners, the orders passed by the Courts below have not been assailed so far as conviction recorded against them is concerned and only argument advanced before me is that keeping in view the fact that the petitioners have already undergone imprisonment for about six months and have suffered the agony of protracted trial a lenient view may be taken so far as the sentence awarded to the petitioners is concerned.

4. Taking into consideration the fact that the petitioners have been facing their trial court for a period of over 8 years and have already undergone about 6 months of their sentence, I feel that the ends of justice would be sufficiently met if while maintaining the conviction, the sentence imposed on the petitioners u/s 325 read with the Section 34, IPC is reduced to the period already undergone by them and to pay a fine of Rs. 5,000/- each. In default of payment of fine the petitioners shall undergo rigorous imprisonment for six months. The amount of fine so deposited by the petitioner shall be paid to the injured.