

(2013) 07 P&H CK 0392

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 1085 of 2013 (O and M)

Ishwar Singh and Others

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 323, 325, 34, 452
Penal Code, 1860 (IPC) — Section 323, 325, 34, 452

Citation : (2013) 07 P&H CK 0392

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Rajneesh Chadwal, for the Appellant; C.S. Bakshi, AAG., Haryana and Mr. Ashit Malik, Advocate, for the complainant- Sher Singh, for the Respondent

Final Decision : Disposed Off

Judgement

Ritu Bahri, J.—Challenge is to the judgment dated 23.02.2013 passed by the learned Additional Sessions Judge, Bhiwani, whereby he upheld the judgment of conviction dated 16.10.2010 and order of sentence dated 18.10.2010 passed by the Judicial Magistrate, 1st Class, Bhiwani, sentencing the petitioners to undergo rigorous imprisonment as under:-

Brief facts of the case are that on 16.04.2006, a telephonic message was received that Anita wife of Sher Singh, Sarojbai wife of Parbhati and Sher Singh son of Parbhati were admitted in the General Hospital, Bhiwani, in injured condition. Pursuant to the said message, HC Lajja Ram along with other police officials, went to the hospital and recorded the statement of Sher Singh-complainant to the effect that at about 5.30/6.00 A.M., he was sleeping with his wife and children on the roof of his house. His father was sleeping in the courtyard and his mother was giving fodder to the cattle. Suddenly, Ishwar and Dalbir sons of Ram Singh entered into their house and started beating him with "lathis". When his wife-Anita tried to rescue him, she was also given fist and

"lathi" blows at the hands of the accused persons. Thereafter, Chander Bhan son of Ram Singh, Wazir son of Ram Chander and Raj wife of Chander Bhan also came there and started giving "lathi" blows to the complainant and his family members. On hearing their noise, Parbhathi, father of the complainant along with Anant Ram and Dinesh Bhan came there and rescued them. On this background, the FIR was registered.

2. After investigation, challan was presented before the trial Court and charges under Sections 323, 325, 452 read with Section 34 IPC were framed against the accused-petitioners, to which, he pleaded not guilty and claimed trial.

3. In order to prove its case, the prosecution examined as many as seven witnesses and thereafter, closed its evidence.

4. Statement of accused-petitioners u/s 313 Cr.P.C. were recorded, wherein all the incriminating evidence appearing against them were put to them, to which they pleaded their false implication.

5. The trial Court after going through the entire evidence led by the parties, convicted and sentenced the petitioners in the above said terms, against which, they preferred an appeal, which was also dismissed by the first Appellate Court.

6. Learned counsel for the petitioners, while arguing the case on merits, restricted his prayer to quantum of sentence. Upon notice, learned counsel for the complainant-Sher Singh put in appearance and stated that if proper compensation is given, he will not oppose for reducing the period of sentence.

7. The dispute is between the close family relations. Learned counsel for the petitioners has handed over Rs. 60,000/- to the complainant-Sher Singh and his wife Anita in the Court today, as compensation on account of the injuries suffered by them and Saroj Bai, mother of the complainant. In this regard, affidavits of complainant-Sher Singh and his wife Anita have also been filed in Court. They have stated that Saroj Bai, mother of complainant-Sher Singh could not come present in the Court, as she is 77 years old. They have accepted the compensation on her behalf also. They have been identified by their counsel.

8. The incident took place in the year 2006. The petitioners have faced the agony of trial for almost seven years and they do not carry any criminal background. Moreover, both the parties are now residing peacefully.

9. Keeping in view the above facts, the conviction of the petitioners under Sections 323, 325, 452 and 34 IPC is upheld, but the sentence of imprisonment, awarded to them, is reduced to the period already undergone and a direction is given that the petitioners be released to the satisfaction of CJM/Duty Magistrate, Bhiwani. With the above modification/direction, the present petition stands disposed of.