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High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 821 of 1988

Om Parkash APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision: July 27, 2001

Acts Referred:

- Penal Code, 1860 (IPC) - Section 324, 325, 326, 34

Citation: (2001) 4 RCR(Criminal) 328

Hon'ble Judges: V.K. Bali, J

Bench: Single Bench

Advocate: Baldev Singh and R.S. Chahar, for the Appellant; R.D. Sharma, AAG, for the Respondent

Final Decision: Partly Allowed

Judgement

V.K. Bali, J.
By this common order, f propose to decide two connected Criminal Revisions bearing No. 821 of 1988 (Om Parkash and another versus State of Haryana) and 822 of 1988 (Mange Ram versus State of Haryana), as the same emanate from one FIR and a common judgment recorded by the learned Courts below.

2. These revisions have been directed against the order of conviction and sentence dated 30.11.1987 recorded by learned Additional Chief Judicial Magistrate, Hisar, wherein Om Parkash has been held guilty for an offence punishable u/s 326 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of three years as also to pay fine of Rs. 1000/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months. He has further been held guilty for an offence punishable u/s 325 read with Section 34 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of six months as also to pay fine of Rs. 500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of three months. He has further been held guilty for an offence punishable under Sections 324 of

Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of six months and u/s 323 read with Section 34 of Indian Penal Code, he was sentenced to undergo rigorous imprisonment for a period of three months. Mange Ram has since been held guilty for an offence punishable u/s 326 read with Section 34 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of one year as also to pay fine of Rs. 500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of three months, u/s 325 read with Section 34 of Indian Penal Code, he was sentenced to undergo rigorous imprisonment for a period of one year as also to pay fine of Rs. 500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of three months. He has also been held guilty for an offence punishable u/s 324 read with Section 34 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of three months and u/s 323 read with Section 34 of Indian Penal Code, he was sentenced to undergo rigorous imprisonment for a period of three months. Insofar as Surjit Singh, is concerned, he has been held guilty for an offence punishable u/s 326 read with Section 34 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of six months as also to pay fine of Rs. 500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of three months, u/s 325 read with Section 34 of Indian Penal Code, he was sentenced to undergo rigorous imprisonment for a period of three months as also to pay fine of Rs. 200/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of one month. He has also been held guilty for an offence punishable under Sections 324 and 323 read with Section 34 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of three months each. However, the sentences, awarded to the petitioners, were ordered to run concurrently. The order of conviction and sentence, referred to above, has since been affirmed in an appeal that came to be preferred by the petitioners, vide order dated 6.8.1988 passed by learned Additional Sessions Judge-III, Hisar.

3. Brief facts, as disclosed in the FIR, reveal that Smt. Chiriya wife of Sohan Lal was residing in village Sarsana, She had four sons, namely, Ram Sarup, Ram Singh, Sunder Singh and Bhim Singh. Ram Sarup and Ram Singh were married, while Sunder Singh was dumb and insane and Bhim Singh was in the employment of Military. Ram Sarup was service as a driver in Haryana Roadways and Ram Singh was working as a Chowkidar in godowns at Ellenabad. Ram Singh had come on 2-3 days leave from Ellenabad. At about 8.00 P.M. on 9.4.1979, the complainant heard alarm of Mar-dita, Mar-dita. As door of the house was bolted from outside, complainant Chiriya went over to the roof of the house and saw that Om Parkash was armed with a Kulhari, Surjit Singh was catching hold of her son Ram Singh and Mange Ram was armed with a Lathi. Om Parkash gave a Kulhari blow on the head of Ram Singh, while Mange Ram gave a lathi blow over right knee of Ram Singh. At this, Ram Singh had fallen but Om Parkash inflicted several other Kulhari blows and Mange Ram had also given lathi blows which caused many injuries on many parts of body Ram Singh. Smt. Savitri wife of Ram Singh had also come running at the spot and complainant raised an alarm crying for help saying

that petitioners would kill her son. Thereafter, all the petitioners took Ram Singh to the house of Om Parkash. According to complainant, wives of petitioner Om Parkash and Ram Singh had quarrelled with each other and thereafter, their husbands had also quarrelled over that matter but that matter had been got compromised by the Panchayat. However, the petitioners had kept a grudge of that quarrel in their minds.

4. Mr. Baldev Singh, learned counsel representing the petitioners, without joining issues on merits, however, vehemently contends that the incident took place on 9.4.1979, ultimately resulting in accusation on 30.11.1987, and by now, a period of 22 years has gone by. In the manner aforesaid, the petitioners had to undergo an agony of protracted trial, spanned over a number of years, mentioned above. All the petitioners have since already undergone sentence for a period of about 2-1/2 months and ends of justice would be met if, while upholding the order of conviction against the petitioners, they are dealt with leniently and their sentence is reduced to the period already undergone. In support of his aforesaid contention, learned counsel relies upon judgments of this Court in cases Basant Singh v. State of Punjab 2000(4) RCR (Cri) 578 as also Sawinder Singh v. State of Punjab 2000(1) RCR (Cri) 163.

5. After hearing learned counsel representing the parties, this Court is of the view that inasmuch as number of years have gone by and the petitioners have already undergone an agony of protracted trial, spanned over all these years, they deserve lenient view in the matter of sentence and ends of justice would be met, if, while upholding the order of conviction recorded against all the petitioners, sentence imposed upon them is reduced to the one already undergone. So ordered. Insofar as Om Parkash is concerned, he had given several injuries. Thus, it is a case, where fine needs to be increased to Rs. 5,000/-. So ordered. In the event of default of payment of fine, however, Om Parkash shall undergo the sentence, as imposed by the learned Courts below. If fine is paid, the same shall be remitted to Ram Singh injured.

6. These revisions are partly allowed in the manner, indicated above.

7. Revisions party allowed.