

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

Criminal Revision No.1067 of 2004

Date of Decision: 28 - 5 - 2009

Ninder @ Ninder Singh etc.

.....Petitioners

v.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE KANWALJIT SINGH AHLUWALIA

Present: Mr.Manish Prabhakar, Advocate
for the petitioners.

Mr.A.S.Brar, Sr. DAG, Punjab.

KANWALJIT SINGH AHLUWALIA, J. (ORAL)

Ninder @ Ninder Singh, Binder @ Binder Singh and Inder @ Karelu were convicted by the trial Court for offence under Section 452, 325 and 324 IPC. Petitioners had filed an appeal. The Appellate Court modified the sentence as under:-

1. Ninder Singh

U/s 452 IPC To undergo R.I. for 9 months and pay a fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for three months.

U/s 325 IPC To undergo R.I. for 9 months and to pay a fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for three months.

U/s 324/34 IPC To under R.I. for six months and to pay a

fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for one month.

2. Binder Singh

U/s 452 IPC To undergo R.I. for 9 months and pay a fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for three months.

U/s 325/34 IPC To undergo R.I. for 9 months and pay a fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for three months.

U/s 324 IPC To undergo R.I. for 6 months and to pay a fine of Rs.100/- and in default of payment of fine, to undergo further R.I. for one month.

3. Inder Singh

U/s 452 IPC To undergo R.I. for 9 months nad pay a fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for three months.

U/s 325/34 IPC To undergo R.I. for 9 months and pay a fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for three months.

U/s 324/34 IPC To undergo R.I. for 6 months and to pay a fine of Rs.100/- and in default of payment of fine, to undergo further R.I. for one month.

Facts are being taken from paragraph 2 of the Appellate Court judgment:-

“A criminal complaint was filed by Balkar Singh against Ninder Singh and others that on 17.8.1998 at about 7-15 P.M, after finishing his work, complainant came to his house, he saw some thorny bushes lying in front of his house and he went to the house of the accused to lodge a protest as to why they

placed these bushes in front of his house and in this way, his cycle got punctured and he became late to go to the work and sometimes, he did not get labour work and came back to his house. After some time, accused Ninder armed with dang, Binder armed with a takua and Inder @ Karelu armed with a Kirpan and Kashmir Singh armed with a dang, entered his house and Kashmir Singh exhorted that the complainant be taught a lesson for objecting the placing of bushes in front of his house. Then Binder Singh gave a takua blow hitting on his head and Bara gave a Takua blow on his head. When wife of the complainant came forward to rescue him, Ninder gave a dang blow on her left arm, as a result of which her left arm was got fractured. When brother of the complainant raised noise Mar Ditta Mar Ditta, then accused Inder @ Karelu gave a kirpan blow to Jarnail Singh hitting on his right arm and Kashmir Singh gave a dang blow hitting Jarnail Singh on the left buttock upper portion. When they raised noise, the accused ran away with their weapons with a threat that in case they went for medical examination to the hospital or reported the matter to the police, they would be done to death. Therefore, in the night they could not go anywhere due to fear of the accused and on the next morning, Kartar Singh arranged for conveyance and the injured were got admitted in Civil Hospital, Patti where they were medically examined. The doctor sent the medical report to police station Valtaha but they did not take any action and after discharge from the hospital they again approached the

police to take the action but they did not take any action, hence the complaint was filed.”

DW2 Dr.Sukhwinder Singh Sandhu medically examined Ninder Singh accused-petitioner and found the following injuries on his person:-

1. An incised wound 6 x 1.5 cm. oblique in direction in direction on the lateral and back side of left fore-arm, 6 cm away from the elbow joint. Wound was muscle deep and cerum was present in the wound.
2. An incised wound 6 x 2.5 cm oblique in direction on front and lateral side of left leg, 12 cm above ankle joint. Wound was bone deep and cerum was present in the wound.

Injury No.2 on the person of Ninder Singh was declared as grievous.

Counsel for the petitioners contended that he will not assail the conviction but only pray to the Court that petitioners had suffered protracted trial of 10 years, therefore, their sentence be adequately reduced. Counsel has submitted that in the present case, petitioners were tried in a complaint case. It is a case of version and cross version. Counsel submitted that taking into consideration the protracted trial and that the petitioners had committed no offence during the last 10 years, their sentence should be reduced to the period already undergone. Mr.Brar has stated that in that condition petitioners should compensate the complainant.

Counsel for the petitioners has submitted that petitioners are very poor and they will not be in a position to pay compensation, therefore, instead of reducing the sentence to already undergone, sentence be adequately reduced.

After hearing counsel for the parties, I am of the view that there

is a merit in the contention advanced by counsel for the petitioners. Accordingly, the sentence is reduced from nine months rigorous imprisonment to five months rigorous imprisonment.

With aforesaid modification in the order of sentence, the petition is disposed off.

May 28, 2009.

**(KANWALJIT SINGH AHLUWALIA)
JUDGE**

RC