

CRR-2461-2016

**275 IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CRR-2461-2016
Decided on:24.04.2025

Monu Kumar and others

.... Petitioners

versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

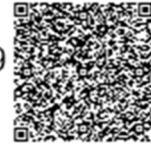
Present: Mr. Ashish Bansal, Advocate
as amicus curiae for the petitioners.

Mr. Subhash Godara, Addl. AG, Punjab.

Harpreet Singh Brar, J. (Oral)

1. This revision petition has been preferred against the judgment dated 11.05.2016 passed by learned Additional Sessions Judge, Ferozpur vide which, judgment of conviction and order on quantum of sentence dated 05.11.2015 passed by learned Judicial Magistrate Ist Class, Zira have been upheld, in case stemming from FIR No.141 dated 30.10.2011 registered under Sections 452/326/323/34 of IPC at Police Station Zira and the petitioners were sentenced as under :

Offence under Section(s)	Name of Convict	Sentence
326 IPC	Gagandeep @ Gaggu	RI for 02 years and a fine of Rs.2,000/- in default of payment of fine to further undergo RI for 03 months
326 r/w 34 IPC	Monu and Manjit	RI for 02 years and a fine of Rs.2,000/- each, in default of payment of fine to further undergo RI for 03 months.
323 IPC	Monu	RI for six months and a fine of Rs.500/- each, in default of

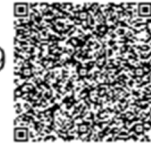


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		payment of fine to further undergo RI for 02 weeks.
323 IPC	Manjit	RI for six months and a fine of Rs.500/- each, in default of payment of fine to further undergo RI for 02 weeks
323 r/w 34 IPC	Gaggu and Manjit	RI for six months and a fine of Rs.500/- each, in default of payment of fine to further undergo RI for 02 weeks
323 r/w 34 IPC	Gaggu and Monu	RI for six months and a fine of Rs.500/- each, in default of payment of fine to further undergo RI for 02 weeks
452 r/w 34 IPC	Gagandeep @ Gaggu, Monu and Manjit	RI for one year and a fine of Rs.500/- each, in default of payment of fine to further undergo RI for 02 weeks
It was ordered that all the sentences shall run concurrently.		

2. The learned Amicus Curiae submits, *inter alia*, that the Courts below have gravely erred in convicting the petitioner, as his guilt has not been established beyond reasonable doubt. He contends that the Courts have failed to appreciate that no eyewitness to the alleged incident was examined or produced during the trial even though complainant has stated that people gathered at the time of alleged incident. Further, although the complainant alleged that the petitioner assaulted him with kirpan blows, no such weapon was recovered.

3. Furthermore, the complainant, using his influential connections, manipulated the MLR and other medical records to exaggerate simple injuries as grievous ones. Additionally, it is submitted that it was, in fact, the complainant and his relatives who attacked the petitioner and his family members, resulting in the petitioner sustaining as many as eight injuries. Lastly, the testimony of PW-3, Bishan Singh, is unreliable, as he is the complainant's father and, thus, an interested witness.



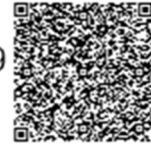
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4. Per contra, learned State counsel opposes the prayer of the petitioners as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by the learned lower Appellate Court and as such, they do not deserve any leniency.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

7. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala v. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the



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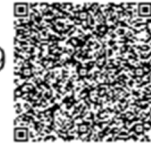
manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. It transpires that the petitioners were convicted under Sections 452/326/323/34 of IPC, for which no minimum punishment has been prescribed.

9. The FIR in the present case was lodged on 30.10.2011 and the petitioners have been suffering the agony of trial for the last more than 13 years. Since their conviction, the petitioners have grown into law-abiding citizen and desire to live a peaceful life. As per their custody certificates, the petitioners, Monu Kumar and Gagandeep @Gagu have undergone actual custody period of 04 months and 29 days and petitioner, Manjit Kumar has undergone actual custody period of 05 months and 25 days out of total sentence of 2 years, awarded by learned trial Court and they are not involved in any other case.

10. Since there is no minimum punishment prescribed under Sections 452/326/323/34 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

11. Consequently, the present petition is disposed of and the judgment dated 11.05.2016 passed by the learned Additional Sessions Judge, Ferozepur affirming the judgment of conviction dated 05.11.2015 is upheld, however, the order of sentence dated 05.11.2015 is modified to the extent that the sentence of rigorous imprisonment for 02 years and fine along with default mechanism



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awarded to the petitioners is reduced to the period of sentence already undergone by them.

12. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

24.04.2025
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(HARPREET SINGH BRAR)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No