

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

Criminal Appeal S-2266-SB of 2003

Date of Decision: August 19, 2015

Raju

.....Appellant

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Vipul Jindal, Advocate
for the appellant.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

T.P.S.MANN, J. (Oral)

The appellant was tried for committing offences punishable under Sections 332, 333 and 353 IPC on the allegations that on 7.8.2001, at about 3:00 p.m. he had given filthy abuses to complainant-Sumer, Conductor of Haryana Roadways bus and when the complainant objected, he picked up a measuring weight and gave a blow with the same on the left ankle of the complainant and fist blows on his body and chest. Further, when the complainant raised an alarm, Jai Kishan, driver of the bus was attracted but the

appellant caused injuries to him also.

Vide judgment and order dated 10/12.11.2003, the Additional Sessions Judge, Faridabad, convicted the appellant for the aforementioned offences and sentenced him as below:-

- (i) Rigorous imprisonment for one year under Section 332 IPC.
- (ii) Rigorous imprisonment for two years and fine of Rs. 2,000/- under Section 333 IPC and in default of payment of fine to further undergo rigorous imprisonment for three months and ;
- (iii) Rigorous imprisonment for six months under Section 353 IPC.

All the substantive sentences were ordered to run concurrently.

Learned counsel for the appellant has submitted that the appellant does not intend to challenge the impugned judgment of conviction. However, it is submitted that the appellant is a first offender. The prosecution has not been able to establish the genesis of the occurrence as for no rhyme and reason, the appellant could not have picked up a measuring weight and caused an injury with the same on the

left foot of complainant-Sumer. It is further submitted that the appellant is facing the agony of criminal prosecution for the last more than fourteen years. The measuring weight said to have been used by the appellant in the commission of crime was not shown to have been carried by the appellant and apparently had been picked up from the spot itself. Prayer has, accordingly, been made for setting aside the sentence of imprisonment imposed upon the appellant and for extending the benefit of probation to him.

Learned State counsel has vehemently opposed the prayer made on behalf of the appellant by submitting that the appellant had obstructed complainant-Sumer, conductor of the bus and Jai Kishan, driver of the bus from discharging their duties as public servants and causing injuries to them. As a result, complainant-Sumer suffered a fracture of left fibula while Jai Kishan suffered fracture of his nasal bone.

After hearing learned counsel for the parties and taking into consideration the totality of the circumstances, this Court is of the considered view that the appellant deserves the concession of probation.

Resultantly, the conviction of the appellant is upheld. His sentences of imprisonment on all the counts are

set aside. Instead, he is ordered to be released on probation on his furnishing bonds to the satisfaction of the Chief Judicial Magistrate, Faridabad, to keep peace and be of good behaviour for a period of one year and to receive sentence as and when called upon to do so. The fine amount of Rs. 2,000/- imposed upon the appellant by the trial Court and already deposited by him shall be treated as costs of proceedings.

The appeal is, accordingly, disposed of.

August 19, 2015
amit rana

(T.P.S. MANN)
JUDGE