

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRR-1136-2006

Date of Decision: September 16, 2015

Smt. Kamla

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Raghav Goel, Advocate,
for Mr. Harkesh Manuja, Advocate,
for the petitioner.

Mr. Kuldeep Tiwari, Addl. AG, Haryana,
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J. (Oral)

Challenge in the present criminal revision petition is to the judgment dated 3.5.2006, passed by learned Additional Sessions Judge, Rewari, whereby the appeal filed by the petitioner challenging her conviction and sentences for the offences

punishable under Sections 323, 324 and 326, IPC, recorded by learned Additional Chief Judicial Magistrate, Rewari, was dismissed.

At the very outset learned counsel for the petitioner submits that he has instructions to state at the bar that the petitioner does not want to challenge her conviction in view of concurrent findings recorded by both the Courts below. However, he submits that in view of the fact that the occurrence had taken place on 6.7.1989; the dispute was between two thickly related ladies, i.e. injured-Sudha (since deceased) was the sister of father-in-law of the petitioner (*Bua* of the husband of the petitioner); the petitioner is aged about 63 years at present; he has already suffered incarceration for more than four months; the fine of ₹50,000/- (Rupees fifty thousand only), imposed by learned Trial Court, was deposited before the said Court; the petitioner is neither required nor involved in any other case; during pendency of the trial, appeal and the present criminal revision petition, the petitioner remained on bail and she did not misuse the said concession; and that the motive for causing injuries on the person of injured-Sudha (since deceased) was a dispute over ancestral property.

Learned counsel further points out that though the benefit on merits of the case has not been claimed by the

petitioner, yet keeping in view the fact that the injured-Sudha (since deceased) did not appear before learned Trial Court, the petitioner can be extended some benefit in sentence.

Learned counsel for the State has not controverted the factual aspects raised by learned counsel for the petitioner, however, he submits that as many as seven injuries, including three fractures, though on non-vital parts, were caused to the injured-Sudha (since deceased), therefore, the sentence awarded by learned Trial Court and upheld by learned Appellate Court, is in consonance with the offences committed by the petitioner.

I have heard learned counsel for the parties and with their able assistance gone through the records received from learned Courts below.

On the basis of seven prosecution witnesses, including Jagdish (PW1), an eye-witness of the occurrence; medical officers, i.e. Dr. Narvir Singh (PW3) and Dr. Pawan Kumar (PW5), as well as depositions of the investigating officers, this Court finds that conviction of the petitioner for the offences punishable under Sections 323, 324 and 326, IPC, is well based and, hence, learned counsel for the petitioner has rightly opted not to challenge the conviction of the petitioner.

Though this Court finds that as many as seven injuries, including three fractures on the left arm and left leg of Sudha (since

deceased) were caused by the petitioner, yet keeping in view the facts that the occurrence had taken place about twenty-six years ago; the petitioner is 63-year old woman at present, as disclosed by learned counsel for the petitioner; the petitioner and the injured were thickly related with each other; the motive for the quarrel was a dispute over ancestral property; the petitioner has already suffered incarceration for four months and twenty-three days as on 18.8.2015, which is evident from the jail custody certificate in the shape of affidavit of the Deputy Superintendent, District Jail, Gurgaon, produced on record by learned counsel for the State; total fine of ₹50,000/- (Rupees fifty thousand only), imposed by learned Trial Court was deposited by the petitioner; and the fact that the injured-Sudha (since deceased) was not produced before learned Trial Court, the jail punishment for five years for the offence punishable under Section 326, IPC, appears to be on higher side and, hence, the substantive sentence of the petitioner for the offence punishable under Section 326, IPC, is reduced to simple imprisonment for one year. The substantive sentences for the offences punishable under Sections 323 and 324, IPC, and the fine imposed by learned Courts below for the offences punishable under Sections 324 and 326, IPC, are maintained. All the substantive sentences for the offences punishable under Sections 323, 324 and 326, IPC, shall run concurrently.

With the above modification in the order of sentence for the offence punishable under Section 326, IPC, the present criminal revision petition is disposed of.

A copy of this judgment alongwith the original records of the lower Courts, be immediately sent to the learned Trial Court for securing presence of the petitioner so that she might undergo remaining period of substantive sentences, as modified by this Court.

September 16, 2015
P Kapoor

(NARESH KUMAR SANGHI)
JUDGE