

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

**CRR NO. 1009 OF 2007 (O&M)
DECIDED ON : 12.02.2015**

Satyawan and others

..... Petitioners

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI.

Present : Mr. Anil Malik, Advocate,
for the petitioner.

Mr. P. P. Chahar, DAG, Haryana.

Mr. S. S. Mor, Advocate,
for the complainant.

K. C. PURI, J. (ORAL)

Challenge in this revision petition is to the judgment dated 18.05.2007 passed by Shri Sandeep Kumar Garg, Additional Sessions Judge (Fast Track Court), Bhiwani, vide which the appeal preferred by the accused/appellants now petitioners against the judgment of conviction dated 22.11.2005 and order of sentence dated 23.11.2005 passed by Shri J. B. Gupta, Chief Judicial Magistrate, Bhiwani, was dismissed. The accused/appellants vide said judgment were convicted under Sections 323/325/34 of the Indian Penal Code (in short "the IPC") and

sentenced them to undergo rigorous imprisonment for a period of six months and to pay fine of ₹200/- each for an offence punishable under Section 323 read with Section 34 IPC and they were further sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹500/- each for an offence punishable under Section 325 read with Section 34 IPC and in default of payment of fine, they were further sentenced to undergo simple imprisonment for a period of thirty days. However, all the sentences were ordered to run concurrently.

The facts as enumerated from the record are that on 30.08.1999 complainant Sandeep got recorded his statement to the effect that he went to bring his cow. When he reached near railway level crossing, Satyawar and Ram Mehar sons of Dharampal, Vijender s/o Deewan Chand along with one unknown person met him. Satyawar brought one iron rod from the shop of Pappi cyclist and inflicted blows on the forehead of complainant due to which he fell down. He further inflicted two more iron rod blows which hit below his right ear and right shoulder. Ram Mehar inflicted fist blows on the left hand wrist of complainant whereas Vijender inflicted kick blows on his right knee. The complainant raised alarm upon which he was rescued by his neighbour Sher Singh. Accordingly, he sought action against the accused by making the said statement. He further stated that the motive behind the occurrence was that about 15 days prior to the occurrence, his bua's (father's sister) son namely Parveen arrived

at Bhiwani and the said Parveen developed love affair with Kavita d/o Dharampal. Both of them also got snapped photographs together. The said fact came to the knowledge of Dharampal (father of Kavita and accused Ram Mehar and Satyawar) and he was keeping grudge against them in his mind. On the basis of his statement, formal FIR was recorded. Investigation was carried out. Accused were arrested. Statements of witnesses were recorded. After completion of necessary investigation challan against all the accused/appellants was presented in the Court.

Copies of the documents as envisaged under Section 207 Cr.P.C, were supplied to all the accused free of costs.

On finding a prima facie case made out against all the accused, charge under Section 323/325/34 IPC was framed against all the accused, to which, they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined as many as eight witnesses and closed the prosecution evidence.

Statement of all the accused under Section 313 Cr.P.C were recorded wherein all the incriminating evidence was put to them to which they denied and pleaded false implication.

The accused were called upon to lead defence evidence but they have not examined even a single witness in their defence.

The learned trial Court, after appraisal of the evidence, convicted all the accused and sentenced them to undergo

rigorous imprisonment and fine, as narrated above.

Feeling dissatisfied with the aforesaid judgment of conviction dated 22.11.2005 and order of sentence dated 23.11.2005, the accused preferred appeal. The said appeal was dismissed vide judgment dated 18.05.2007 passed by Shri S.K. Garg, Additional Sessions Judge (Fast Track Court), Bhiwani.

Still feeling aggrieved by the above said judgment dated 18.05.2007 passed by Additional Sessions Judge, Bhiwani, and the judgment of conviction dated 22.11.2005 and order of sentence dated 23.11.2005, the accused/appellants now petitioners have preferred the instant revision petition.

Learned counsel for the petitioners having realized that there is concurrent finding of fact recorded by both the courts below, has not challenged the conviction but has submitted that petitioners Satywan and Ram Mehar have undergone incarceration for a period of 02 months 29 days including remission of 10 days each, whereas petitioner Vijender has undergone incarceration for a period of 03 months 02 days including remission of 10 days. He has further submitted that the occurrence relates to the year 1999 i.e more than 15 years ago. So, prayer has been made for taking lenient view regarding quantum of sentence.

On the other hand, learned counsel for the complainant has submitted that Satyawar has given head injuries. He has further submitted, (on instructions), that in case

the petitioners pay adequate compensation to the complainant, then lenient view be taken regarding quantum of sentence.

I have heard learned counsel for the parties and have gone through the records.

The petitioners Satywan and Ram Mehar have undergone incarceration for a period of 02 months 29 days including remission of 10 days each, whereas petitioner Vijender has undergone incarceration for a period of 03 months 02 days including remission of 10 days. They are neither previous convicts nor involved in any other case. The case relates to more than 14 years ago. So, taking into account whole of the circumstances, the sentence of all the petitioners stand reduced to the period already undergone by them.

However, Satyawan has given head injury falling within the ambit of Section 325 IPC. The ends of justice would be met in case he is directed to pay compensation of ₹20,000/-. The other two petitioners are directed to pay compensation of ₹10,000/- each. The said amount of ₹40,000/- be deposited before the trial court within two months from today and on realization, the same shall be disbursed to the complainant/injured Sandeep. In case the petitioners fail to deposit the said amount, the instant petition would be deemed to have been dismissed and the petitioners may be called upon to undergo the remaining part of their sentence.

With the above said modification, the petition stands disposed of accordingly.

A copy of the order be sent to the trial court for strict compliance.

FEBRUARY 12, 2015
shalini

(K. C. PURI)
JUDGE