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

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Date of Decision: 27.07.2015

Gurdeep Singh

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Mr. Avtar Singh Khinda, Advocate,
for the petitioner.

Paramjeet Singh, J.

Instant revision has been filed with a prayer for modification of impugned judgment dated 30.03.2015 and enhancement of sentence awarded to respondent Nos.2 to 5.

Brief facts of the case are to the effect that injured-Gurdeep Singh got recorded his statement to the effect that he is resident of village Nasirpur, Police Station Sultanpur Lodhi and doing service is police department in District Kapurthala. A dispute between Amar Kaur, Paramjit Kaur on one side and Surinder Singh etc. on the other was earlier going on. A case is also pending in this regard. Manjit Kaur, wife of Surinder Singh and her sister-in-law Neetu wife of Sonu i.e. accused gave bad names to his above said sisters-in-law. The complainant had gone ahead to stop them. In the meantime, one car

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bearing No.PB-09K-5656 which was being driven by Harpreet Singh son of Surinder Singh came and stopped near them. Then, at once, Surinder Singh raised *lalkara* that complainant (Gurdeep Singh) be taught a lesson for picking up daily quarrel with them. Then one Manni, relative of Harpreet Singh handed over pistol to Harpreet Singh. Harpreet Singh with intention to kill fired from said pistol towards complainant, as complainant at once turned towards right side and the shot fired from the pistol hit on his left arm near the shoulder and further hitting left side of stomach of the complainant and passed out from near his chest. The complainant fell on the ground. His wife Rani came at the spot. Then, Surinder Singh had taken out *dattar* from the car and made a blow towards sister-in-law (Bharjai) of complainant namely Paramjit Kaur which hit her on the head. Manni had taken out rod from car and made a blow on the head of his sister-in-law. In the meantime, Sodhi son of Ranjit Singh, r/o Nasirpur came at the spot. He picked up a piece of brick and threw it towards sister-in-law of the complainant namely Amar Kaur which hit her on right shoulder. Surinder Singh made another blow by his weapon i.e. *dattar* on Amar Kaur which hit her on left arm near shoulder. Manjit Kaur picked up piece of brick (*Rora*) and threw it towards Rani wife of the complainant which hit her on right side shoulder. Neetu also threw piece of brick towards Rani which hit her on right side. Then, the accused ran away from the place of occurrence alongwith their weapons and their car. Mohinder Singh, brother of the complainant came at the spot. He made the arrangement of the vehicle

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and got admitted the injured at Civil Hospital, Kapurthala where doctor conducted their medical examination and provided first aid. The dispute/litigation was going between them and Surinder Singh. Due to above said grudge, accused caused injuries on the person of the complainant and others. On the basis of aforesaid statement, FIR was registered against the accused persons. The accused were arrested. After completion of investigation, challan against the accused persons was filed.

On finding, prima facie case, the accused were charge-sheeted under Sections 307/323/325/34 of the Indian Penal Code (in short, 'IPC') to which they pleaded not guilty and claimed trial.

To prove its case, the prosecution examined complainant-injured Gurdeep Singh as PW 1, injured-Amar Kaur as PW 2, injured-Rani as PW 3, injured-Paramjit Kaur as PW 4, Sukhwinder Singh as PW 5, Head Constable Sukhdev Singh as PW 6, Inspector Narinder Singh as PW 7, Dr. Rupinder Kaur, Medical Officer as PW 8, Dr. Narinder Singh, Medical Officer as PW 9. Thereafter, learned APP for State closed the prosecution evidence.

Statements of the accused were recorded under Section 313 Cr.P.C. The accused denied all the incriminating circumstances appearing against them in the prosecution evidence and claimed to be innocent. In their defence, the accused examined Smod Kumar as DW 1, Joginder Ram as DW 2, Joginder Singh as DW 3, Dilbagh Singh as DW 4, Balwinder Singh as DW 5, Balwant Singh as DW 6, Dr. Neelam Joshi

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as DW 7. After tendering some documents, the accused closed their defence evidence.

The trial Court, analyzing the evidence on record, came to conclusion that the prosecution had been able to bring home the charges and, accordingly, held accused-respondent Nos.2 to 5 guilty under Sections 307/325/323/34 of IPC and sentenced as under:

<i>Name of Convict</i>	<i>Under Section</i>	<i>Sentence</i>
Surinder Singh	307/34 IPC	To undergo rigorous imprisonment for five years and burdened with fine of ₹1500/-, in default, of payment of fine to further undergo simple imprisonment for one month.
	325 IPC	To undergo rigorous imprisonment for two years and burdened with fine of ₹1,000/-, in default of payment o fine to further undergo simple imprisonment for three weeks.
	323/34 IPC	To undergo rigorous imprisonment for one year and burdened with fine of ₹500/-, in default of payment of fine to further undergo simple imprisonment for 15 days.
Manjit Kaur, Anita Rani @ Neetu and Kulbir Singh alias Sodhi	307/34 IPC	To undergo rigorous imprisonment for three years and burdened with fine of ₹1500/-, in default payment of fine to further undergo simple imprisonment for one month by each of the convicts.

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<i>Name of Convict</i>	<i>Under Section</i>	<i>Sentence</i>
	324/34 IPC	To undergo rigorous imprisonment for two years and burdened with fine of ₹1,000/-, in default of payment of fine to further undergo simple imprisonment for three weeks by each of the convicts.
	323 IPC	To undergo rigorous imprisonment for one year and burdened with fine of ₹5,00/-, in default of payment of fine to further undergo simple imprisonment for fifteen days by each of the convicts.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contended that sentence is required to be enhanced being inadequate looking at the gravity of offences committed by respondent Nos.2 to 5.

I have considered the contentions of learned counsel for the petitioner.

The question that falls for consideration before me is as to whether revision filed by the complainant for enhancement of sentence is tenable. The powers of the High Court for enhancement of sentence are exhaustive under Section 401 of the Code of Criminal Procedure (in short, 'the Code'), relevant portion of which reads thus :

"401. High Court is powers of revision :

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(1) In the case of any proceeding the record of which has been called for itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by Sections 386, 389, 390 and 391 or on a Court of Session by S. 307 and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by S. 392."

It is quite clear from the wording of Section 401 of the Code has conferred extensive powers on the High Court as that of Section 386 and other provisions of the Code. It appears from the wording of Section 401 that the High Court in a given case can even send for the record and examine and pass such orders as may be necessary in the interest of justice. Learned counsel for the petitioner failed to show any cogent and convincing evidence and special grounds on the basis of which punishment should be enhanced.

Moreover, I am afraid, while exercising revisional jurisdiction, this Court cannot re-appreciate the evidence. The basic object behind Section 401 of the Code is to empower the high court to exercise the powers of an appellate court to prevent failure of justice in cases where the Code does not provide for appeal. The power, however, is to be exercised only in exceptional cases where there has been a miscarriage of justice owing to a defect in the procedure or a manifest error on the point of law, excess of jurisdiction, abuse of power, where decision upon which the trial court relied has since been reversed or overruled when the revision is being heard. In exercising the power of revision, which is discretionary, the court should always bear in mind the limitation that under the garb of exercising its powers of revision; it

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cannot exercise the power of appeal in the face of statutory prohibitions.

This is not a case where an important piece of evidence has been left out from consideration by the courts below while deciding the case.

In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

27.07.2015
parveen kumar

(Paramjeet Singh)
Judge