

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

Crl. Revision No.2407 of 2015 (O&M)
Date of decision: 16.11.2015

Vipan Saini

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. K.S. Kahlon, Advocate for the petitioner.
Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J. (oral)

Petitioner Vipan Saini had been convicted by the Judicial Magistrate 1st Class, Pathankot, under sections 325 & 323 IPC. He was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1000/- under section 323 IPC and further to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- under section 325 IPC.

Petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by Addl. Sessions Judge, Pathankot, vide judgment dated 4.6.2015.

Feeling aggrieved against the judgments of both the courts below, the petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that

he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated. He further states that petitioner has agreed to compensate injured/complainant to the extent of Rs.50,000/-. Father of the petitioner has also filed an affidavit to this effect, which is taken on record as Mark 'A'.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 29.10.2010, ASI Anil Kumar alongwith his police party was present at Tilak Hospital, Dhangu Road, Sunder Nagar, Pathankot for patrolling duty. Surender Saini came there and got his statement recorded to the effect that he had been running a sweet shop at Luxmi Garden Colony, Pathankot. Vipin Kumar (petitioner herein) used to purchase milk and other products from his shop. In March, 2010 he shifted his shop to Shiv Mandir Street, Sunder Nagar, Pathankot. On 14.10.2010 when he went to Dhaki for some personal work and reached near Chamba Guest House, suddenly the petitioner came across. Complainant demanded that Rs.3000/- be returned, on which accused Vipin Saini asked him to reach Luxmi Garden Colony, Pathankot. After some time, when he reached at that place, Vipin Saini came there and threatened him to teach a lesson for demanding money and gave a blow on the head of the complainant, who fell down on the ground. Accused Vipin Saini attacked with some iron object. Complainant

sustained injury on his little finger and blood started oozing out of the same. He raised hue and cry. Ramesh alias Bittu came on the spot. Thereafter, accused fled from the spot. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under Sections 325 and 323 IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as seven witnesses.

Statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, the learned trial court held the petitioner guilty of the charge under sections 325 and 323 IPC and sentenced him as already indicated above. Appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Pathankot on 4.6.2015.

On a perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both

the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor persons and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated. Even the petitioner has also agreed to compensate injured/complainant to the extent of Rs.50,000/-.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to 08 months, but the petitioner is burdened with a fine of Rs.50,000/- to be paid as compensation to the injured/complainant Surinder Saini. The fine be deposited within three months from the date of receipt of certified copy of this order. However, in case fine aforesaid is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court.

Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

(RAJAN GUPTA)
JUDGE

16.11.2015
'Rajpal'