

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.2460 of 2015 (O&M)****Date of Decision: November 04, 2015**

Mahabir and another

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harish Bhardwaj, Advocate
for the petitioners.

Mr.Anmol Malik, Asstt. Advocate General, Haryana
for the respondent-State.

Mr.G.C.Shahpuri, Advocate
for the complainant.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Mahabir and Rakesh against State of Punjab, challenging the impugned judgment of conviction dated 28.07.2014 and order of sentence dated 30.07.2014 passed by learned Sub Divisional Judicial Magistrate, Pataudi, vide which the petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of six months each under Section 323 IPC read with Section 34 IPC and they were further sentenced to undergo rigorous imprisonment for a period of one year and to pay of fine of ₹500/- each and in default of payment of fine to further undergo rigorous imprisonment for a period

of two months under Section 325 IPC read with Section 34 IPC and also challenging the judgment dated 09.06.2015 passed by learned Sessions Judge, Gurgaon, vide which appeal filed by petitioners was dismissed.

Notice of motion was and learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

From the record, I find that as per prosecution version, FIR was registered on the statement of Jagdish wherein it was alleged that there was dispute of the complainant with Mahabir and Hari Krishan regarding common land. On 01.11.2007 at about 11.00 A.M., the complainant was installing a cement pole in his land adjacent to Gurgaon Pataudi Road. At that time, Ramanand, Vedwati, Pushpa, Kajal and Sunny came there and stopped the complainant from installing the pole. Thereafter, verbal altercation took place. Hari Krishan and Manoj also came at the spot. Then, Mahabir came at the spot armed with kassi, Hari Krishan armed with iron rod, Rakesh, Ramanand, Sunny, Kajal, Vedwati and Pushpa also came there armed with lathi. Mahavir gave kassi blow to complainant which hit on the left side of his hand, Hari Krishan gave iron rod blow on his left leg and arm. Rakesh gave lathi blow on the leg of the complainant. When complainant raised noise, Karan Singh came at the spot and he was also beaten by Mahabir, Ramanand, Hari Krishan, Rakesh, Kajal, Vedwati and Pushpa.

Learned SDJM, Pataudi, vide impugned judgment of

conviction and order of sentence convicted and sentenced accused-petitioners Mahabir and Rakesh only and remaining accused namely Hari Krishan, Pushpa and Ramanand were acquitted of the charges.

An appeal was filed by the present petitioners and learned Sessions Judge, Gurgaon dismissed the appeal vide impugned judgment dated 09.06.2015.

Aggrieved from the above-said judgments and order, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioners argued that there is delay of three days in recording the FIR. Secondly, he argued that PW-Karan Singh has deposed regarding one injury only, which was on the head, whereas he has received other injuries also as per medical evidence. Learned counsel for the petitioners further prayed for reduction of sentence.

On the other hand, learned State counsel as well learned counsel for the complainant argued that findings given by both the Courts below are correct and as per law and no illegality has been committed.

After hearing learned counsel for the parties as well as learned State counsel and after going through the record, first of all, I find that this is a revision petition and in the revision petition, this Court is only to see whether any illegality has been committed by the Courts below or whether the findings given by the Courts below are perverse i.e. against the evidence or whether any material evidence has been misread or whether any material evidence has not been

considered by the Courts below. Nothing has been pointed out at the time of arguments as to how the findings given by the Courts below are perverse nor anything has been pointed out that any of the findings given by the Courts below are against the law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered. This Court is not to re-appreciate the evidence in the revision petition like an appeal.

As regarding delay of three days in recording the FIR, I find that FIR was against eight persons but the challan was presented only against five persons and after carefully appreciating the evidence, three persons were acquitted. The delay in itself cannot be held as fatal to the prosecution case. In the cases of delay, the Court is to scrutinize the evidence more cautiously and carefully. The Courts below have also only convicted two accused, who are present revision petitioners.

I have gone through the record and statements of injured witnesses as well as the evidence. Even if Karan Singh has deposed mainly regarding injury on head, it will not create any doubt. Other PWs have deposed that accused have given injuries to Karan Singh. These injuries have been duly supported and corroborated by medical evidence. In no way, after the perusal of the statements of witnesses, it can be held that oral statements have not been supported and corroborate by medical evidence. Furthermore, the perusal of the statements of material witnesses shows that there is nothing on the record or in the cross-examinations of these witnesses, which may

make their statements unreliable. Therefore, the conviction of the present petitioners by the Courts below is correct, as per law and does not require any interference from this Court.

As regarding reduction of sentence, I find that both the present revision petitioners have already been convicted and sentenced in another case regarding causing injuries to the same complainant.

Keeping in view the facts and circumstances of the present case and the grievous injury on the head and the fact that petitioners are not first offenders, I do not find any ground to reduce the sentence.

Therefore, finding no merit in the present revision petition, the same is dismissed.

November 04, 2015
Vgulati

(INDERJIT SINGH)
JUDGE