

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2609-2015 (O&M)
Date of Decision: December 5, 2015

Charan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Dilpreet Singh Mann, Advocate,
for Mr. Hitesh Kaplish, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
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 this criminal revision petition is to the judgment dated 1.6.2015, passed by learned Additional Sessions Judge, Kapurthala, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 323 read with Section 34, 324 and 326, IPC, recorded by learned Sub-Divisional Judicial Magistrate, Phagwara, was dismissed.

On 13.8.2015, when the case came up for preliminary

hearing, at that time learned counsel for the petitioner had proposed not to challenge the conviction of the petitioner and, as such, notice was issued with regard to quantum of sentence only.

In compliance of the notice issued, learned counsel for the State has put in appearance.

Learned proxy counsel for the petitioner as well as learned counsel for the State are *ad idem* that present criminal revision petition can be disposed of at this stage.

Learned proxy counsel submits that for the last more than nine years, the petitioner is facing the agony of trial, appeal and the present petition; during pendency of the trial and appeal, the petitioner was released on bail, but he did not misuse the said concession; the petitioner as well as the aggrieved/injured, Surinder Kumar, are businessmen and on account of a previous case pending before the Court, the occurrence had taken place in which Surinder Kumar alleged to have sustained one grievous injury on little finger of right hand while rest of the two injuries were simple in nature; and that the petitioner has already suffered incarceration for seven months and three days and if the remissions earned by him are added, then he has undergone eight months and twenty-three days of

substantive sentence. He further submits that the remissions earned by the petitioner would clearly spell out that he (petitioner) is improving himself in the jail. It has also been pointed out that the petitioner is neither required nor involved in any other case. He further states at the bar that the petitioner is ready to adequately compensate the injured, Surinder Kumar.

Learned counsel for the State submits that learned First Appellate Court has already reduced the substantive sentence for all the offences and, as such, there is no much scope for further reduction of the substantive sentence. However, he fairly concedes that the petitioner has suffered incarceration for eight months and twenty-three days, as per the affidavit of the Superintendent, Central Jail, Jalandhar at Kapurthala. He further fairly concedes that the petitioner has earned jail remissions which clearly spell out that he (petitioner) is in process of improving himself. It has also been conceded that the petitioner is neither required nor involved in any other case.

Though learned counsel for the petitioner has proposed not to challenge the conviction of the petitioner, but to satisfy the conscience of this Court, the material available on record has been re-scanned.

The deposition of Surinder Kumar, medical evidence and the statement of the investigating officer would clearly prove the case of the prosecution that the petitioner armed with *Gandasi*, in the company of co-accused Karnail Singh, caused simple and grievous injuries to Surinder Kumar. The petitioner had caused a grievous injury on little finger of the right hand and another simple injury on the right arm of Surinder Kumar, while his co-accused, Kuldeep Kumar had caused an injury attracting the mischief of Section 323, IPC, and, as such, the verdict of guilt returned by learned Trial Court and affirmed by learned First Appellate Court are well based.

From the material available on record and going through the judgments passed by both the Courts below, this Court is also of the considered opinion that the conviction of the petitioner is well based and no interference of this Court is required. In view of the said fact, learned counsel for the petitioner has correctly opted not to challenge the conviction of the petitioner.

There appears to be substance in the alternative arguments of learned proxy counsel for the petitioner that the petitioner is a first offender; the quarrel had

emanated on account of a previous litigation pending between the same parties before the Court; the grievous injury sustained by Surinder Kumar was on the little finger of the right hand and that out of rigorous imprisonment for one year for the offence punishable under Section 326, IPC, the petitioner has already suffered incarceration of seven months and three days as on 4.12.2015, therefore, the substantive sentences of the petitioner can be reduced to the period already undergone by him.

In view of above, the present criminal revision petition is partly allowed. The substantive sentences for the offences punishable under Sections 323/34, 324 and 326, IPC, recorded by learned Sub Divisional Judicial Magistrate, Phagwara, and reduced by learned Additional Sessions Judge, Kapurthala, are further modified. The substantive sentences for the aforementioned offences are reduced to the period already undergone by the petitioner, i.e. seven months and three days as on 4.12.2015. However, there would be no change in the order of fine and sentence passed in default of payment thereof, for the offence punishable under Section 326, IPC.

It is further directed that the petitioner shall pay a sum of ₹20,000/- (Rupees Twenty thousand only) as compensation to

the informant/injured, Surinder Kumar, within two months of passing of this order. In default of payment of compensation, the order of sentence passed by learned first Appellate Court shall enure.

The amount of compensation granted by this Court shall be deposited by the petitioner with the learned trial Court within stipulated period.

On deposit of the amount of compensation by the petitioner, learned Trial Court shall issue a notice to the informant/injured, Surinder Kumar, for withdrawal of the said amount as per settled norms.

Since the petitioner is stated to be in custody, he is directed to be released immediately, if not required to be in custody in any other case.

(NARESH KUMAR SANGHI)
JUDGE

December 5, 2015
Pkapoor