

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 2865 of 2015 (O&M)
Date of Decision: 30.10.2015

Kanshi Ram alias Akashi
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

- 1. *Whether reporters of local newspapers may be allowed to see judgment?*
- 2. *To be referred to reporters or not?*
- 3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. P.S. Sekhon, Advocate
for the petitioner (s).

Mr. Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA J.

Petitioner – Kanshi Ram alias Akashi has filed the present revision petition against the judgment dated 4.6.2015 passed by learned Sessions Judge, Sangur, whereby the appeal preferred by him against the judgment of conviction and order of sentence dated 6.11.2013 passed by Sub Divisional Judicial Magistrate, Sunam was dismissed.

Learned Sub Divisional Judicial Magistrate, Sunam vide judgment dated 6.11.2013 has convicted the petitioner for offence under Sections 325/323 IPC has sentenced him as under:-

1.	<i>Under Section 325</i>	<i>To undergo rigorous imprisonment for two years and to</i>
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	<i>IPC</i>	<i>pay fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for two months.</i>
2.	<i>Under Section 323 IPC</i>	<i>To undergo rigorous imprisonment for six months.</i>

Both the sentences were ordered to run concurrently.

As per the case of the prosecution, complainant Amar Nath, resident of Indira Basti, Sunam had submitted a complaint to the effect that he was a labourer by profession and in the year 2005, he left Sunam and shifted in Sangrur. On 28.2.2009, he had come to Sunam to look after his house. At about 2.30 p.m., when he was sitting on the outer steps/stairs of his uncle Mangat Ram's house and was setting up his socks, suddenly, the petitioner-accused Kanshi Ram armed with Ghotna reached there and gave its blow on left side of his head and then he gave the second blow with the same Ghotna on his jaw on the left side. Resultantly, he fell down on the ground. The petitioner-accused gave repeated blows with the Ghotna on his legs and other parts of the body. When the complainant raised hue and cry, Surjan Ram son of Banwari Lal reached at the spot. On seeing him, the petitioner ran away from the spot. The reason for the occurrence was that Satish Kumar, the father of the petitioner had died after consuming liquor, but the petitioner had falsely implicated him in the murder of his father. But the said case being false, was subsequently cancelled and since

then, the petitioner had grudge against him and out of that grudge, the petitioner inflicted injuries upon him. The complainant being injured, was admitted in Civil Hospital, Sunam by Surjan Ram and Surjit Singh, from where he was referred to Rajindra Medical College and Hospital, Patiala. Accordingly, FIR was registered.

The matter was investigated and police report was submitted. The documents appended with the report were supplied to the petitioner, as provided under Section 207 CrPC free of cost. The petitioner was chargesheeted for offences under Sections 325/323 IPC, to which, he pleaded not guilty and claimed trial.

The trial Court vide judgment dated 6.11.2013 convicted the petitioner and sentenced him for maximum period of two years, as mentioned above.

Against the aforesaid judgment of conviction and order of sentence, the petitioner filed an appeal before learned Sessions Judge, Sangrur. However, learned Appellate Court finding no illegality in the judgment passed by the trial Court, dismissed the appeal.

It is in the aforesaid circumstances, the petitioner has filed the present petition.

On August 07, 2015, this Court passed the following order:-

“Learned counsel for the petitioner states that he is not pressing the revision petition on merit, however, he confines his prayer with regard to quantum of sentence/ probation only.

*Notice of motion to the Advocate General, Punjab,
qua quantum of sentence/probation, for 04.09.2015.*

Record be requisitioned.”

In view of order dated 7.8.2015, learned counsel for the petitioner has fairly stated that he does not wish to challenge the impugned judgments on merits, rather prays for reduction of the sentence awarded to the petitioner or release of the petitioner on probation. Thus, learned counsel for the petitioner has confined his arguments with regard to quantum of sentence/probation only.

Learned counsel for the petitioner submitted that the petitioner is not only a young person of 36 years of age and a labourer, but also a first time offender. He is not involved in any other case except the present one. He is required to look after his widow mother. He has already suffered the agony of protracted trial since 28.2.2009 when the alleged incident had occurred. Moreover, as against the substantive sentence of two years, he is in custody for the last about five months. He further submitted that the injuries attributed to the petitioner are on the non-vital parts of the body.

Learned State counsel has already filed custody certificate of the petitioner and does not dispute that as against the awarded sentence of two years, he is in custody for about five months.

I have heard learned counsel for the parties and gone through the record of the case.

This Court in the case of **Shiv Kumar v. State of Haryana 2014(3) RCR (Criminal) 577** has observed as under:-

“5. Considering the facts that the petitioner has been quite young when the occurrence took place, there is no previous conviction to this discredit and he has already suffered imprisonment for a period of one month and 24 days, I find him to have not crossed the age where his behaviour could not be corrected. Therefore, he appears to be entitled to be released on probation of good conduct. However, compensation in a sum of Rs.20,000/- would be just and proper to be paid by the petitioner to the victim, Sarla Devi.”

In the case of **Sohan Lal v. State of Punjab 1979 CLJ (Criminal) 113** where the accused was first time offender and had undergone the sentence of 3½ months, his sentence was reduced to the period already undergone by him. Similarly, in the case of **Balwinder Singh v. State of Punjab CRR No.2574 fo 2012 decided on 31.10.2012** this Court has reduced the sentence of the accused therein under Sections 323, 325 and 326 IPC.

The custody certificate shows that the petitioner is not involved in any other case except the present one and he is in custody since 4.6.2015.

Considering the fact that the petitioner has suffered the protracted trial since the year 2009 and there is no previous conviction to his discredit, coupled with the fact that he remained in custody for a period of about five months, I find that the petitioner has not crossed the age where his behaviour cannot be corrected.

Therefore, his sentence is allowed to be reduced to the period of imprisonment already undergone by him. However, since the complainant has suffered the injuries, he deserves to be compensated. Thus, taking into account the nature of job of the petitioner who is stated to be a labourer, it would be just and proper if the complainant is directed to be compensated for a sum of Rs.10,000/- to be paid by the petitioner.

In these circumstances, while upholding the judgment of conviction passed by the Courts below, the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the petitioner is directed to pay a sum of Rs.10,000/-, as compensation, to the injured-complainant. The compensation amount shall be deposited before the trial Court within two months from today failing which, the petitioner shall undergo the sentence as imposed by the trial Court. On redemption of amount, the same shall be paid to the injured-complainant. However, the sentence of fine awarded by the trial Court stands affirmed.

With the modification in the sentence, the revision petition stands disposed of accordingly.

October 30, 2015
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(HARI PAL VERMA)
JUDGE