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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3503-2015 [O&M]

Date of Decision : Sept. 18th , 2015

Ajaib Singh @ Kala

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr. Gopal Singh Nahel, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present revision petition is against the judgment of conviction recorded by learned Judicial Magistrate Ist Class, Dhuri dated 24.12.2013 in case bearing FIR No. 33 dated 26.04.2010 under Section 326 IPC Police Station Sherpur, whereby the revisionist was held guilty and convicted for commission of offence under Section 326 IPC and sentenced to undergo Rigorous Imprisonment for 2 years and fine of Rs. 2,000/-.

2. Revisionist has also challenged the order dated 28.8.2015 passed by learned Additional Sessions Judge, Sangrur while dismissing the appeal against conviction, but modified the order of sentence and reduced the period of imprisonment from 2 years to 1 year.

3. Relevant facts of the case, that on 25.4.2010, MHC Sukhwinder Singh received an information that complainant-Ranjit Singh was admitted in PGI, Chandigarh in injured condition. As per complainant, on 22.4.2010 at 1.30 PM, he alongwith his younger brother, Nirmal Singh was present in the shop, accused Ajaib Singh along with three other persons came and

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started talking with them. He demanded one glass and water for taking liquor in the shop. The complainant objected to it and asked to leave the spot. Accused threatened with dire consequences. Thereafter an altercation took place between them. Accused picked up a hand fan from the table and inflicted a blow and an injury was caused with the wire of the hand fan on the right eye of the complainant. Accused fled away from the spot alongwith his companions. The complainant was taken for medical treatment to a private doctor and then he was referred to PGI, Chandigarh where he remained admitted on 22.4.2010 itself. Medical ruqa was sent on the same day but statement of the complainant could be recorded only on 26.4.2010 when the complainant was declared fit to make the statement.

4. During trial, learned Magistrate framed charge against the accused, recorded statements of the prosecution witnesses which included statement of complainant and eye-witness as also statement of Dr. Pandurang Kulkarni [PW-4] apart from statement of other official witnesses. Accused was examined under Section 313 Cr.P.C. After considering prosecution evidence as well as defence version, learned trial Magistrate held the revisionist guilty for commission of offence punishable under Section 326 IPC and convicted and sentenced him.

5. Revisionist preferred first appeal before Additional Sessions Judge and the same was decided with modification in the order of sentence and thereafter the present revision petition before this Court.

6. Learned counsel for the revisionist mainly took the plea that the prosecution case has not been proved at all because both the Courts below have completely ignored the fact that the occurrence had taken place on 22.04.2010 and the FIR was recorded on 26.04.2010. The delay

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in lodging of the FIR is explained. More so, the doctor who had given the opinion about the injury to be covered under Section 326 IPC has not been examined by the prosecution. So, the present revision petition be accepted and the judgment of conviction and order of sentence modified by the Appellate Court be set-aside.

7. Having considered the submissions made by learned counsel for the revisionist and the material available before this Court, this Court is of the considered view that both the Courts below have duly appreciated the evidence available on the file. The complainant as well as eye-witnesses have fully supported and corroborated the prosecution case. The ocular testimony duly supports the medical evidence.

8. As regards to delay in reporting the matter, the injured was admitted in PGI on reference on 22.04.2010 itself. Thereafter, intimation was sent to the Police. HC Jaggar Singh alongwith PHG Charanjit Singh visited PGI and obtained ruqa from PGI Chandigarh, but the concerned doctor was not available. Thereafter, statement of the complainant-injured could be recorded only on 26.04.2010. Otherwise also, delay in this case itself does not disprove the prosecution case. Injured Ranjit Singh had made specific allegations against the present revisionist. There is no question of false implication while leaving the real culprits. More so, there is no dispute about the identity of the accused as well.

9 As regards to non-examination of the doctor, who had given the report regarding nature of injury to be covered under Section 326 IPC, the complainant-injured was treated in PGI, Chandigarh. The medical evidence has been proved as per the statement of Dr. Pandurang Kulkarni, Senior Resident, PGI, Chandigarh [PW-4], who had deposed that on 19.7.2010,

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on police request, he had given medico legal case summary of Ranjit Singh. He also deposed that on 26.04.2010, Dr. Manjari Tandon made her endorsement Ex. P7 and proved treatment file of complainant-injured Ranjit Singh. The defence version is just a plea of denial which does not find any support or corroboration, whereas the prosecution case is fully proved before the Courts below. Otherwise also, both the Courts have duly appreciated the evidence available on the file and there is no illegality much less perversity in the judgment of conviction and order of sentence of the Courts below and call for no interference in the revisional jurisdiction.

10. The revision petition is dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

Sept. 18th, 2015
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