

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-3752-2015 (O&M)

Date of Decision: December 03, 2015

Maya Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Randeep S. Dhull, Advocate,
for the petitioner.

Mr. Sanjay Kumar, AAG, Haryana.

Mr. R. S. Mamli, Advocate,
for the informant.

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- 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 the present criminal revision petition is to
the judgment, dated 17.08.2015, passed by learned Additional

Sessions Judge, Kurukshetra, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 323, 325 and 452, IPC, recorded by learned Sub-Divisional Judicial Magistrate, Pehowa, was dismissed.

On 13.10.2015, when the present criminal revision petition came up for preliminary hearing, at that time learned counsel for the petitioner opted not to challenge the conviction of the petitioner in view of the concurrent findings recorded by both the Courts below. Further he has submitted that there are fairly arguable points with regard to quantum of sentence, therefore, notice was issued in that regard only. In consonance with issuance of notice, Mr. Sanjay Kumar, AAG, Haryana, has put in appearance for the State, while Mr. R. S. Mamli, Advocate, has put in appearance for the informant/injured.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

The petitioner as well as the informant/injured are running *Laith Machines* in their respective shops which are

situated opposite to each other. On account of business jealousy, the quarrel took place and Gurjeet Singh @ Billu sustained two simple injuries and a grievous injury on his right hand. In order to prove its case, the prosecution produced not only Gurjeet Singh @ Billu, but also the Doctors, who mediologically and radiologically examined the injured and also produced the police officials, who had investigated the matter. Perusal of the material available on record would reveal that both the Courts below have rightly returned the verdict of guilt of the petitioner for the offences punishable under Sections 323, 325 and 452, IPC, and, as such, learned counsel for the petitioner was right in his submissions for not challenging the conviction of the petitioner.

The alleged quarrel in which Gurjeet Singh @ Billu had sustained injuries had taken place on 30.06.1995. After trial, the learned trial Court acquitted the petitioner. Dissatisfied with judgment of acquittal, Gurjeet Singh @ Billu filed a revision petition before this Court which was allowed and the matter was remitted to the learned trial Court for denovo trial in accordance with law. Dissatisfied with the order passed by this Court, the petitioner filed Special Leave Petition before Hon'ble the Supreme Court which was dismissed and thereafter, the denovo

trial had taken place in which the petitioner was held guilty for the offences punishable under Sections 323, 325 and 452, IPC. The appeal filed by the petitioner against the judgment of conviction and sentence was dismissed by learned Additional Sessions Judge, Kurukshetra. The petitioner still dissatisfied with the dismissal of appeal has filed the present criminal revision petition and during the whole exercise, he has faced the agony for approximately twenty years. Learned counsel for the petitioner has pointed out that few months ago, the wife of the petitioner has expired, leaving behind the two minor, hundred percent disabled children. Mother of the petitioner has also died and there is none in the family of the petitioner to look after those disabled minor children. He also pointed out that the petitioner is neither required nor involved in any other case and, as such, he is a first offender. On the basis of his submissions, he has prayed that petitioner be released on probation. In support of his contention, learned counsel has placed reliance on **Hansa Singh v. State of Punjab**, (1976) 4 SCC 255 and a Division Bench judgment of this Court in the case of **Dev Singh and others v. State of Punjab**, 2000 Cr1.L.J. 347.

Learned counsel for the State submits that the manner

in which the quarrel has taken place and the injuries caused to the informant/injured, the petitioner does not deserve the leniency in the quantum of sentence. He, however, has not controverted the fact that the petitioner has suffered the incarceration for more than four months.

Learned counsel for the informant/injured has vehemently opposed the prayer of the petitioner for grant of probation to the petitioner. He has also opposed the prayer for reduction of sentence. Learned counsel further submits that in view of the agony suffered by the informant/injured, adequate compensation be granted to him.

In view of totality of the facts and circumstances of the case and after hearing learned counsel for the parties, this Court is of the considered view that the sentence awarded to the petitioner is on higher side. It is undoubtedly true that under Sections 323, 325 and 452, IPC, the convict can be released on probation, but the manner in which the injuries have been caused to the informant/injured, the petitioner does not deserve to be released on probation. However, the sentence of the petitioner deserves to be reduced to the period already undergone by him,

i.e. approximately 4 months and the same is reduced to the period already undergone.

The petitioner is directed to pay a sum of ₹20,000/- (Rupees Twenty thousand only) as compensation to the informant/injured within two months of passing of this order. In default of payment of compensation within the stipulated period, the order of sentence passed by learned Sub Divisional Judicial Magistrate, Pehowa, shall enure.

The amount of compensation granted by this Court shall be deposited by the petitioner with the learned trial Court and the informant/injured may move an application after expiry of two months before learned trial Court for withdrawal of the same in accordance with settled norms.

With the modification in the order of sentence and payment of compensation, the present criminal revision petition is partly allowed.

Since the petitioner is behind the bars, therefore, he is directed to be set at liberty at once, if not required to be in custody in any other case.

The short order in this regard be sent to all concerned immediately.

December 03, 2015
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(NARESH KUMAR SANGHI)
JUDGE