

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4107-2014 (O&M)
Date of Decision: February 5, 2015

Yudhvir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Vishal Munjal, Advocate,
for the petitioner.

Mr. Shilesh Gupta, Addl. AG, Punjab,
for the respondent.

NARESH KUMAR SANGHI, J (Oral)

1. Challenge in this criminal revision petition is to the judgment dated 10.11.2014, passed by the learned Sessions Judge, Pathankot, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 323 and 324, IPC, recorded by learned Chief Judicial Magistrate, Pathankot, was dismissed.

2. When the present criminal revision petition came up for preliminary hearing before this Court on 18.12.2014, at that time learned counsel for the petitioner submitted that he did not want to challenge the conviction of the petitioner in view of concurrent findings of both the Courts below, however, he

prayed for issuance of notice of motion for consideration of quantum of sentence only.

3. In pursuance to the notice issued, learned counsel for the State has put in appearance.

4. 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 with the assistance of learned counsel for the parties.

5. As per version of the prosecution, the complainant, Neeta Kumari, is wife of the petitioner, Yudhvair Singh. Their marriage was solemnized in the year 2000. The petitioner used to quarrel with the complainant and several times with the intervention of the respectables of the society, the issues were patched up. On 17.5.2009, at about 12:00 O'clock, when the complainant was at her matrimonial house, then the petitioner arrived there in a drunkard state and started abusing the complainant and thereafter gave fist blow on her left eye. The other family members of the petitioner exhorted and instigated the petitioner to teach a lesson and to cause injuries on the person of the complainant. Anju Malhotra, sister of the petitioner gave two blows with a wooden cloth beater (*Thappi*) on the knee

and right arm of the complainant. The petitioner lifted a knife and caused an injury on the nose of the complainant. Anju Malhotra once again gave kick blows on the leg of the complainant. Akshit Singh, son of the complainant went out of the house and intimated father of the complainant with regard to the incident through a telephonic call. Few members from the side of the complainant arrived at the spot and thereafter the complainant was shifted to the hospital where she was medico-legally examined. The negotiation for compromise could not mature and, as such, the matter was reported to the police on 21.5.2009, on the basis of which the FIR for the offences punishable under Sections 148, 323 and 324 read with Section 149, IPC, was registered against several persons of the petitioner's side.

6. The matter was thoroughly investigated and the charge-sheet (report under Section 173, Cr.P.C.) was presented for the prosecution of the petitioner, Yudhvir Singh, only for the offences punishable under Sections 323 and 324, IPC. After supplying the copies of the charge-sheet and the documents annexed therewith, the charges for the offences punishable under Sections 323 and 324, IPC, were framed against the petitioner to which he pleaded not guilty and claimed trial.

During course of trial, Neeta Kumari appeared as PW1 and fully supported the prosecution version. Gajinder Singh, Sarpanch, appeared as PW2 and also supported the version of the complainant. Dr. Parveen Kumar (PW3) proved the injuries detected on the person of the complainant at the time of her medico-legal examination. SI Subash Chander (PW4) deposed regarding the investigation conducted by him. Similarly, ASI Sarabjit Singh (PW5), who partially investigated the case, too deposed with regard to the investigation conducted by him. After conclusion of the prosecution evidence, the statement of the petitioner in terms of Section 313, Cr.P.C., was recorded in which he denied all the circumstances appearing against him and pleaded innocence. No evidence in defence was led.

7. After hearing learned counsel for the parties, learned Trial Court held the petitioner guilty for the offences punishable under Sections 323 and 324, IPC, and awarded the following sentences:-

Under Section	Sentence (R.I.)	Fine (in Rs.)	In Default (R.I.)
323, IPC	1 year	200/-	30 days
324, IPC	2 years	200/-	30 days

Both the substantive sentences were ordered to run concurrently.

8. Aggrieved by the judgment of conviction and the

order of sentence, the petitioner preferred an appeal before the Court of Session, which was dismissed by learned Sessions Judge, Pathankot.

9. This Court is also of the considered view that the verdict of conviction recorded by learned Trial Court and maintained by learned first appellate Court is well based and, as such, learned counsel for the petitioner has correctly opted not to challenge the conviction of the petitioner. However, there appears to be substance when he submits that the present criminal litigation has arisen out of a matrimonial dispute; the alleged injuries received by Neeta Kumari, were simple in nature and all the injuries have healed; the petitioner is facing the agony of trial and appeal for the last about five years and eight months; the petitioner is not a previous convict; and that he has already suffered incarceration for approximately three months and, as such, he prays that his sentence may be reduced to the period already undergone by him (petitioner). He further submits that the petitioner is also ready to compensate the complainant.

10. Learned counsel for the State has produced the affidavit of the Superintendent, Sub Jail, Pathankot, showing the period of incarceration suffered by the petitioner, which is taken

on record. He fairly concedes that the complainant had sustained simple injuries. He also concedes that the petitioner is neither required nor involved in any other case and has suffered incarceration for two months and twenty-five days as on 4.2.2015. He further concedes that the petitioner has earned remission for few days during his incarceration.

11. I have heard learned counsel for the parties with regard to quantum of sentence and of the considered opinion that in view of the submissions made by learned counsel for the petitioner, the substantive sentences awarded to the petitioner can be reduced to the period already undergone by him, i.e. as per the affidavit of the Superintendent, Sub Jail, Pathankot, the petitioner has suffered substantive sentence of 2 months and 25 days and also earned remission of 5 days as on 4.2.2015.

12. As a sequel to the above discussion, this criminal revision petition is partly allowed. The substantive sentences awarded to the petitioner are reduced to the period already undergone by him, whereas the amount of fine shall remain unaltered. The petitioner is directed to pay Rs. 50,000/- as compensation to the complainant, Neeta Kumari, as per the provisions contained in Section 357, Cr.P.C., within one month of passing of this order, which shall be disbursed to her by the

learned Trial Court after issuing notice in accordance with the settled norms.

13. In case the petitioner fails to deposit the above said amount of compensation within the stipulated period, then the petitioner shall suffer the sentence as awarded by the learned Trial Court.

14. The petitioner be set at liberty at once subject to above conditions, if not required to be in custody in any other case.

(NARESH KUMAR SANGHI)
JUDGE

February 5, 2015
Pkapoor