

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.4250 of 2014 (O&M)

.....

Date of decision:20.2.2015

Jogender

...Petitioner

v.

State of Haryana

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Surinder Gandhi, Advocate for the petitioner.

Mr. Deepak Grewal, Deputy Advocate General, Haryana
for the respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned judgment dated 25.11.2014 passed by learned Additional Sessions Judge, Bhiwani, dismissing the appeal filed by the petitioner against the impugned judgment of conviction and the order of sentence dated 14.7.2012 passed by the learned Judicial Magistrate Ist Class, Bhiwani.

It is mainly stated in the grounds of revision that the conviction and sentence passed by the Courts below against the petitioner is not sustainable in the eyes of law. The judgments passed by the Courts below are based upon surmises and conjectures and the same are liable to be set

aside. It is also stated that the Courts below have wrongly convicted the petitioner in FIR No.419 dated 28.12.2009 registered for the offences under Sections 323 and 325 IPC at Police Station Tosham. As per the judgment passed by the learned Judicial Magistrate Ist Class, Bhiwani, the petitioner has been convicted and sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹500/- and in default of payment of fine to further undergo rigorous imprisonment for two months for the offence under Section 325 IPC. He has also been sentenced to undergo rigorous imprisonment for six months for the offence under Section 323 IPC. However, both the sentences have been ordered to run concurrently. The appeal filed by the revision petitioner against the above judgment and order has been dismissed by the learned Additional Sessions Judge, Bhiwani vide impugned judgment dated 25.11.2014.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below, however, pressed for reduction of sentence and the notice of motion was issued only on the quantum of sentence.

Learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and contested this revision petition. The custody certificate has also been filed showing that the petitioner has already undergone two months and 26 days of actual sentence and has earned remission of one month two days as per custody certificate.

Learned counsel for the petitioner at the time of arguments argued that a lenient view may be taken in this case. He also argued that the

petitioner is a poor person, young man of 26 years of age, is a first offender and is the only bread earner of the family. He also argued that the injury which is grievous is on non-vital part of the body that is hand and is with blunt weapon.

I have heard learned counsel for the petitioner as well as learned Deputy Advocate General, Haryana for the respondent-State and have gone through the record.

A perusal of the record shows that the accused-petitioner gave injuries with 'Danda', which hit near the wrist of the left hand of the injured. The injuries were also given by way of bricks by the accused on the right side of the rib and on the right hand.

Keeping in view the facts and circumstances of the present case and the fact that the petitioner was not armed with a deadly weapon and he inflicted grievous injury which is on non-vital part of the body i.e. hand and the petitioner is young man of 26 years and facing the criminal proceedings since 2009 i.e. for the last about more than five years and being a poor person, only bread earner of the family and having small children, I reduce the sentence awarded to the petitioner by the Courts below and order to undergo rigorous imprisonment for six months for the offence under Section 325 IPC instead of two years and to further undergo rigorous imprisonment for three months for the offence under Section 323 IPC instead of six months. However, the sentence of fine and in default of payment of fine will remain the same.

With this reduction of sentences of imprisonment, the criminal revision petition is partly allowed.

February 20, 2015.

(Inderjit Singh)
Judge

hsp