

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

1. **Criminal Revision No.925 of 2015 (O & M)**
Date of Decision:-10.9.2015

Ganda Singh @ Karamjit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

2. **Criminal Revision No.998 of 2015 (O & M)**

Khan Singh and others

...Petitioners

Versus

Gurbachan Singh

...Respondent

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. S.P.S. Sidhu, Advocate and
Mr. Sarbjit Singh, Advocate
for the petitioner(s).

Mr. Sultan Singh Gill, Deputy A.G., Punjab.

HARI PAL VERMA J.(Oral)

By this common judgment, I intend to dispose of Criminal
Revision No.925 of 2015 titled 'Ganda Singh @ Karamjit Singh vs. State

of Punjab and another' and Criminal Revision No.998 of 2015 titled 'Khan Singh and others vs. Gurbachan Singh' preferred by the petitioner(s)-accused against their conviction. Since both the petitions have arisen from the same incident/judgment/order, for the sake of convenience, the facts are being taken up from Criminal Revision No.925 of 2015.

Briefly stated, complaint under Sections 307, 326, 324, 323, 341, 148, 149, 506 and 120-B IPC was filed by respondent-complainant Gurbachan Singh against the petitioners-accused. It is the case of the complainant that on 22.10.2002 the complainant along with his son Virsa Singh and Nishan Singh son of Joginder Singh, resident of Village Chak Bahmania went to plough their fields on Swaraj tractor. At about 8:00 pm. when they were returning to their homes on the said tractor, which was being driven by Virsa Singh, while passing near the house of accused Inder Singh, the said accused came out from his house along with his son Butti. All the accused assaulted the complainant and his companions. Accused Joga Singh asked the complainant to stop the tractor and while the complainant and his companions were in the process of getting down from the tractor, accused Khan Singh, who was armed with Gandasi, gave its blow towards the head of the complainant with intention to kill him. But the complainant raised his left hand to save himself from the attack. The blow launched on his left hand. As a result thereof the top portion of the little finger of left hand of the complainant was chopped and injuries were received on the other fingers of left hand also. Whereas, accused Harnam Singh gave a blow with his *daang* on the right shoulder and on the back of the complainant. The other accused were also armed with

daang and *gandasi* and they caused injuries on the person of Nishan Singh and Virsa Singh. When the complainant raised raula '*bachao bachao*', on hearing this raula, Joginder Singh son of Hazara Singh, Dalip Singh son of Pala Singh, both residents of Village Chak Bahamnia came at the spot and rescued the complainant. In this manner, the complainant was saved from the cruel clutches of the accused. Thereafter Virsa Singh and Nishan Singh were medico legally examined at PHC Dharamkot vide MLR No.MPG/148/02 dated 22.10.2002, wherein on the person of complainant four injuries were shown. Out of these, injuries No.1 and 2 were shown to have been caused by blunt weapon whereas injuries No.3 and 4 were caused by sharp edged weapon and injury No.3 was declared grievous and injury No.4 was declared simple. In the MLR of Virsa Singh, five injuries were shown. Out of which, injuries No.3,4 and 5 were shown as hit by blunt weapon whereas injuries No.1 and 2 were caused by sharp edged weapon and injury No.2 was kept under observation, rest of the injuries were declared simple and after getting the x-ray report No.307 dated 29.10.2002, injury No.2 was declared as grievous. The case of the complainant is that the above named accused persons tried to kill him, Virsa Singh and Nishan Singh, because these accused who had malicious intention were nursing a grudge and had enmity with the complainant and his companions.

On the basis of evidence so adduced by the respective parties, learned Magistrate vide judgment dated 14.2.2013 convicted and sentenced the accused as under :-

<i>Name of Convict</i>	<i>U/Section</i>	<i>Imprisonment</i>
Khan Singh	326 IPC	Sentenced to undergo RI for a period of one year six months with fine of Rs.300/- and in default of payment of fine, he shall further undergo RI for 20 days.
	324/149 IPC	Sentenced to undergo RI for a period of one year.
	323/149 IPC	Sentenced to undergo RI for a period of six months.
	148 IPC	Sentenced to undergo RI for a period of six months.
Harnam Singh	326/149 IPC	Sentenced to undergo RI for a period of one year and six months with fine of Rs.300/- and in default of payment of fine, he shall further undergo RI for 20 days.
	324/149 IPC	Sentenced to undergo RI for a period of one year.
	323 IPC	Sentenced to undergo RI for a period of six months.
	148 IPC	Sentenced to undergo RI for a period of six months.
Chaman Singh	326/149 IPC	Sentenced to undergo RI for a period of one year and six months with fine of Rs.300/- and in default of payment of fine, he shall further undergo RI for 20 days.
	324/149 IPC	Sentenced to undergo RI for a period of one year.
	323 IPC	Sentenced to undergo RI for a period of six months.
	148 IPC	Sentenced to undergo RI for a period of six months.
Ganda Singh @ Karamjit Singh	326/149 IPC	Sentenced to undergo RI for a period of one year and six months with fine of Rs.300/- and in default of payment of fine, he shall further undergo RI for 20 days.
	324 IPC	Sentenced to undergo RI for a period of one year.
	323/149 IPC	Sentenced to undergo RI for a period of six months.
	148 IPC	Sentenced to undergo RI for a period of six months.

Against the aforesaid judgment of conviction and sentence

dated 14.2.2013 passed by learned Judicial Magistrate 1st Class, Nakodar, the petitioners preferred an appeal and the learned Additional Sessions Judge, Jalandhar, vide his judgment dated 11.2.2015 observed as under :-

- “14. As a cumulative effect of the discussion made in the preceding paras, it can be validly inferred that the prosecution has been able to prove its case beyond reasonable doubt against the appellants/accused except appellant Joga Singh who stands acquitted of the charges and the appeal mentioned in head note (I) as CRA No.30070/13 is dismissed qua appellant Ganda Singh. The judgment of conviction passed by the learned Trial Court in this case regarding remaining appellants/accused does not deserve any interference of this Court through appellate jurisdiction, hence appeals of remaining appellants are hereby dismissed.
15. Confronted with the situation, the counsel for the appellants has requested that the appellants are facing the agony of trial since about 11 years and a lenient view may be taken regarding the substantive sentence awarded by the trial Court. Considering the request of the counsel for appellants, I have carefully gone through the file. The complaint in question was instituted on 27.1.2003 which shows that the case is pending since about 11 years. Hence in view of the submissions, the order of sentence of one year six months under Section 326 IPC and 326/149 IPC already ordered by the trial Court is altered and reduced to RI for a period of one year. No

interference in the remaining order of sentence is warranted. Appellants/accused except Joga Singh (who stands acquitted) be taken into custody. The bail and surety bonds of all the appellants are ordered to be discharged. Both the appeal files be consigned to record room after placing a copy of this judgment on the other appeal file. The trial Court file be also sent back for its separate consignment.”

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

At the outset learned counsel for the petitioners have stated that they do not challenge the judgment on merits, rather prays for reduction of the sentence awarded to the petitioners. The grounds pleaded are that the petitioners are not only the first time offenders, rather have suffered the agony of protracted trial since the year 2003. It is submitted that as against the substantive sentence of one year, the petitioners have already undergone about seven months. It is further submitted that the allegations against the petitioners are that the petitioners have caused injuries on the person of the complainant, which are not grievous in nature. Accordingly, learned counsel for the petitioners prays for releasing them as the period already undergone by them.

Learned counsel for the petitioners has placed reliance in the case of ***Shiv Kumar vs. State of Haryana*** 2014 (3) RCR (Criminal) 577 wherein this Court 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 vs. State of Punjab*** 1979 CLJ (Criminal) 113 where the accused was first offender and has undergone the sentence of 3-½ months, his sentence was reduced to already undergone.

In ***CRR No.2574 of 2012, decided on 31.10.2012 titled 'Balwinder Singh vs. State of Punjab'***, this Court has reduced the sentence of the accused in a similar case under Sections 323, 325 and 326 IPC.

Learned State counsel though has opposed the prayer of the petitioners to reduce the sentence as already undergone, but does not dispute the fact that the petitioners are the first offenders and have faced the incarceration for a period of about seven months out of the substantive sentence awarded by the Court below. Learned State counsel has filed the custody certificate of the petitioners reflecting the custody of the petitioners for 5 months and 20 days as on 15.7.2015 i.e. about seven months as on date. The custody certificate also substantiates the fact that the petitioners are not involved in any other case except the present one.

Considering the fact that the petitioners have suffered a protracted trial since the year 2003, and there is no previous conviction to their discredit and have already suffered imprisonment for a period of seven months, I find that they have not crossed the age where their behaviour could not be corrected. Therefore, their sentence is allowed to be reduced to the period of imprisonment already undergone by them. However, the complainant who has suffered the injuries deserves to be compensated and it would be just and proper that the victim is directed to be compensated for a sum of Rs.20,000/-, paid by the petitioners.

In these circumstances, the present petition is partly allowed and while upholding the judgment of conviction passed by the Court below and sentence awarded by the learned Additional Sessions Judge, Jalandhar, is reduced to the period already undergone. The petitioners are directed to pay a sum of Rs.5000/- each, total comes to Rs.20,000/- as compensation to the injured-complainant. However, the sentence of fine awarded by the trial Court stands affirmed. The compensation shall be paid before the trial Court within two months from today failing which they shall undergo the sentence imposed by the trial Court, On redemption of amount, the same shall be paid to the injured-complainant.

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

September 10, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE