

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

1. CRR No. 926 of 2015 (O&M)

Date of Decision: 05.08.2015

Radha Krishan and others

....Petitioners

Versus

State of Punjab

....Respondent

2. CRR No.1094 of 2015 (O&M)

Manphool

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

- 1. Whether Reporters of the 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?*

Present: Mr. Navdeep Chhabra, Advocate for the petitioners.

Mr. Gurveer Sidhu, AAG, Punjab.

R.P. NAGRATH, J. (ORAL)

By this common order CRR No.926 of 2015 and CRR No. 1094 of 2015 are being disposed of as challenge in both these petitions is to the concurrent findings of conviction recorded by the Courts below sentencing the petitioners to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2000/- each and in default of payment of fine to further undergo rigorous imprisonment for three months under section 325/34 of IPC. Petitioners were also awarded sentence to undergo simple imprisonment for a period of six months and to pay a fine of Rs.500/- each and in default of payment of fine, to further

undergo simple imprisonment for one month under section 323/34 IPC.

Both the sentences were to run concurrently.

After arguing for some time, learned counsel for the petitioners has not challenged the conviction of the petitioners on merits and confines arguments only qua the quantum of sentence, obviously because of the limited scope of intervention of this Court in its revisional jurisdiction against the concurrent finding of conviction recorded by the courts below which is on proper appreciation of the evidence.

The oral evidence is further corroborated by the medical evidence. The injured was medically examined on the same day and following injuries were found:-

- “1. Lacerated wound 1cm x 1 cm on the left occipital region. Behind left ear. Adv. X-ray.*
- 2. Lacerated wound 2cm x 1 cm on the left pinna on the front.*
- 3. Lacerated wound 3 cm x 1cm on the left side just above upper lip lying vertically.*
- 4. Lacerated wound 2cm x 1 cm on the upper lip on the inner side along with pain on the left side tooth canine. Adv. dental opinion.”*

I have heard learned counsel for the petitioners, learned State counsel and also perused the records.

The facts of the case, in brief, are that on 20.01.2008 at about 10.00 AM when complainant (Raj Kumar) was getting his house constructed, Radha Krishan son of Nand Ram and Anuj Ram son of Radha Krishan came there and started quarreling with the sister of the complainant namely Leela, saying as to why she was getting the house

constructed. When complainant came forward, Anuj Kumar gave a gandasi blow which hit the complainant on the left of backside of head, then Radha Krishan gave a gandasi blow which hit left ear of the complainant. In the meanwhile, Manphool came at the spot and gave fist blow to the complainant. Bittu also reached at the spot and gave fist blow on the lips of complainant. On this complainant raised cries at the spot which attracted the father of complainant and brother Brij Mohan, who got the complainant released from clutches of the accused and got him admitted in the hospital.

In support of the case, prosecution examined 9 witnesses. In the statement recorded under section 313 Cr.P.C. accused pleaded their false implication and innocence. Despite opportunity being given, no evidence in defence was led by the accused.

Learned counsel for the petitioners submits that earlier there was a civil suit filed by the parties in respect of the property which was later on withdrawn by the father of complainant and others in the year 1996. Copy of the order is Ex.D1. There was another dispute between the parties with regard to damage to the water channel (*khal*) of the fields in which father of the complainant filed an application before the Canal Authorities and his application was allowed vide order dated 03.04.2008 (Ex.D2).

Injury for attracting Section 325 was attributed to Bittu @ Het Ram (petitioner No.2) in CRR No.926 of 2015 whereas the other petitioners have been attributed simple hurts. The grievous hurt is on non-vital part of the body. PW9 Dr. K.S. Dhaliwal conducted dental

examination of the complainant-injured and found that there was fracture of crown in the middle third where vital pulp was seen.

As per custody certificate, Radha Krishan, (petitioner No.1), Pawan Kumar @ Anuj (petitioner No.3) in CRR No. 926 of 2015 and Manphool petitioner in CRR 1094 of 2015 have undergone about 3 months of imprisonment including remissions whereas Bittu @ Het Ram (petitioner No.2) in CRR No. 926 of 2015 has undergone the actual sentence 5 months and 6 days and with remission 5 months and 22 days out of the maximum sentence of one year.

The petitioner and the complainant are close relatives. The learned counsel for petitioners also submitted that health condition of Radha Krishan, petitioner No.1 in CRR No. 926 of 2015 is not good. He suffered snake bite before he was sent to jail on dismissal of his appeal. The medical report prepared by the medical officer of the Central Jail Ferozepur has been filed by the learned State Counsel. It was observed by the doctor as under:-

“The convict Radha Krishan (aged about 45 years) son of Nand Ram, is a known case of snake bite 4-5 months back before entering in the jail. The patient was admitted in Central Jail Ferozepur on 18.02.2015, from where he was immediately referred to Civil Hospital Ferozepur on 18.02.2015, where he remained admitted till 24.02.2015. The patient was having cellulites over left lower limb. Thereafter patient was admitted in Central Jail Hospital Ferozepur, where he is being given required treatment as prescribed and aseptic dressing daily. Patient was again sent to Civil Hospital Ferozepur on 30.04.2015 for follow up, from where he was referred to Guru Gobind Singh

Medical College and Hospital, Faridkot, where he was advised Tab. Novamox CV-625 BD, Tab. Pan 40mg OD, Tab. Lyser-D TDS, Ointment Betadine and Aseptic Dressing daily. Patient was advised for follow up in Plastic Surgery OPD. Patient was provided prescribed treatment and will be sent to Plastic Surgery OPD for follow up.”

Looking into the circumstances of the case and antecedents of the petitioners, I find that the period of sentences already undergone by petitioners in both the petitions would be sufficient punishment but the amount of fine deserves to be increased for compensating the injured.

In view of the above, the sentence of petitioners in both the petitions is reduced to the period already undergone by them. However, the amount of fine of Rs.2000/- each awarded under section 325/34 of IPC is increased to Rs.5000/- each. The amount of fine of Rs.500 each awarded under section 323/34 of IPC is enhanced to Rs.1000/-. The sentence in default of payment of fine is however maintained. The amount of fine if received be disbursed to the injured.

With the above modification in the sentence and increase in the fine, both the petitions are dismissed on merits.

August 5, 2015
Bhumika

(R.P. NAGRATH)
JUDGE