

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

CRR-1445-2006

Date of decision: 20.1.2016

Kala Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.HS Rakhra, Advocate for the petitioner

Mrs. Lavanaya Paul, Assistant Advocate General, Punjab

SNEH PRASHAR, J.

The present revision petition has been filed by the petitioner assailing judgment / order dated 23.8.2005 passed by learned trial Court vide which, he (petitioner) alongwith other co-accused was convicted under Sections 324 and 323 read with Section 34 of the Indian Penal Code (for short 'IPC') and was sentenced to undergo simple imprisonment for two months and to pay fine of Rs.300/- each and in default of payment of fine, to further undergo simple imprisonment for one month under Section 323/34 IPC and to undergo simple imprisonment for four months for commission of offence under Section 324/34 IPC. The judgment of conviction and order of sentence passed by learned trial Court was upheld by learned Additional

Sessions Judge (Adhoc), Fast Track Court, Bathinda vide judgment dated 8.7.2006 qua the petitioner whereas Mailo @ Gurmail Kaur was given the benefit of probation.

The facts extracted from the record are recapitulated hereunder:-

On 16.9.2001 at about 2.00/ 2.30 P.M. Chhoti Kaur (complainant) was standing in front of her house. In the meantime, Kala Singh holding 'gandasa', Mailo armed with 'Thapa' and Kaka Singh son of Chhoti Kaur armed with 'Dang' came and giving an alarm to teach her (Chhoti Kaur) a lesson for making false rumours stating inflicting injuries on her. Kala Singh gave a 'gandasa' blow on the head of Chhoti Kaur; Kaka Singh gave a 'dang' blow on her shoulder and Mailo gave 'Thapa' blows on her back. In the meantime Gurmit Kaur daughter of Chhoti Kaur and Nachatar Singh came there and raised shouts on which the assailants fled away with their respective weapons. Motha Singh husband of the injured Chhoti Kaur took her to Civil Hospital, Goniana where her statement was recorded by the police and FIR No.117 dated 18.9.2001 under Sections 323, 324, 34 IPC was registered at Police Station Nehianwala. The assailants-accused were arrested and on completion of investigation final report under Section 173 of the Code of Criminal Procedure was presented in the Court.

The petitioner alongwith other co-accused was charge-

sheeted under Section 324, 323 read with Section 34 IPC to which, they pleaded not guilty and claimed trial. To prove its allegations, prosecution examined PW1 HC Sarban Singh, PW-2 Dr.M.S.Choudhary, PW3 Nachhattar Singh, PW4 Choti Kaur-complainant (injured), PW5 Dr.Avtar Singh and PW6 SI Rur Singh.

After closure of evidence of the prosecution, separate statements of the accused under Section 313 of the Code of Criminal Procedure were recorded. The accused denied the incriminating evidence put to them and pleaded false implication.

Considering the submissions made by learned Assistant Public Prosecutor for the State as well as the counsel representing the petitioner and other co-accused and evaluating the evidence brought on record, learned trial Court convicted and sentenced petitioner Kala Singh and other two accused as indicated above.

Feeling dissatisfied, the petitioner alongwith his co-accused Mailo Devi preferred an appeal, vide which Mailo Devi was given the benefit of probation as noted above, whereas appeal qua petitioner was dismissed by learned Additional Sessions Judge, Bathinda vide judgment dated 8.7.2006. Being aggrieved, the petitioner filed the present criminal revision.

The submissions made by learned counsel for the parties have been heard and record perused.

At the very outset, learned counsel for the petitioner

submitted that he does not want to challenge the judgment of conviction recorded by learned trial Court and affirmed by learned First Appellate Court on merit and his only prayer is to reduce the sentence awarded to the petitioner as he is poor person and a young man 28/29 years aged. He is a first offender and has never been involved in any other case.

Indeed, perusal of the record reveals that injured Chhoti Kaur and eye witness namely Nachattar Singh PW3 had both equivocally deposed that on 16.9.2001 at about 2.30 PM, the petitioner inflicted injuries with a 'gandasa' on the head of Chhoti Kaur. The injured was medico legally examined by Dr. Avtar Singh Sekhon, District Health Officer, Bathinda PW5, who proved the medico legal report Ex. PW5/A prepared by him. The statements suffered by Chhoti Kaur and Nachattar Singh PW3 stand corroborated by medical evidence. In any case the petitioner does not assail the judgment of conviction recorded against him by learned trial Court and affirmed by learned Sessions Court and hence the same is maintained.

The custody certificate dated 19.1.2016 of the petitioner filed by learned State counsel is taken on record. As per the custody certificate, the petitioner is in custody since 21.12.2015 and has already undergone one month and 22 days of the actual sentence till 19.1.2016.

Considering the submissions made on behalf of the

petitioner and the fact that he is a young man having a family to look after and long career ahead, is facing the agony of the protracted trial since 2001, the sentence awarded to the petitioner under Section 324/34 IPC is reduced to three months with no change in the sentence under Section 323/34 IPC and fine clause.

Disposed of accordingly.

20.1.2016
gsv

(SNEH PRASHAR)
JUDGE