

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

Criminal Revision 1679 of 2006

Date of Decision : November 7, 2016

Krishan Gopal and others	Versus	Petitioners
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. S.K.Yadav, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S.MANN, J. (Oral)

The petitioners alongwith one Ram Kumar were tried for committing offences punishable under Sections 323/325/34 IPC. Vide judgment and order dated 5.2.2000, learned Judicial Magistrate 1st Class, Rohtak, convicted them for the aforementioned offences. They were sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- each for the offence under Section 323 IPC and in default of payment of fine, to undergo simple imprisonment for further period of fifteen days whereas for the offence under Section 325 IPC, they were sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each and in default of payment of fine, to undergo simple imprisonment for further period of one month. Both the sentences were ordered to run concurrently. The fine imposed

was deposited by them there and then.

Aggrieved of their conviction and sentence, the petitioners and Ram Kumar preferred an appeal. In view of the fact that the occurrence had taken place at Meham falling within the jurisdiction of Police Station Meham and after the creation of Courts at Meham, all the cases pertaining to Police Station Meham were to be tried and decided by the Courts at Meham and not at Rohtak, learned Additional Sessions Judge, Rohtak remanded the case to the learned Judicial Magistrate 1st Class, Meham to decide it afresh. The said order passed by the learned Additional Sessions Judge, Rohtak was, however, set-aside by this Court and learned Additional Sessions Judge, Rohtak, was directed to decide the appeal on merits. Subsequent thereto, the appeal was taken up for final hearing. However, in the meantime, Ram Kumar, one of the co-convict of the petitioners expired. Vide judgment dated 17.8.2006, learned Additional Sessions Judge, Rohtak, found no fault with the judgment passed by the trial Court and, accordingly, dismissed the appeal. Still not satisfied, the petitioners preferred the present revision, which was admitted by this Court on 21.8.2006. Simultaneously, the sentences of the petitioners were also suspended and they were ordered to be released on bail.

The case of the prosecution is that on 5.5.1991 at about 12.30 p.m., complainant Chaman Lal, who was a doctor, was installing

the shutter of his medical shop at Meham, when in the meantime, accused Krishan Gopal armed with iron rod and accused Ram Kumar (since deceased), Abhey Singh and Mahender Singh armed with lathies came there and directed him to stop installing the shutter. When the complainant refused to oblige them, all the aforementioned four accused attacked him with the weapons carried by them. Some time later, accused Vijay Kumar and Sita Ram also reached the spot and assaulted the complainant. The complainant raised an alarm, which attracted his son Dharampal and Surender to the spot and rescued him from the clutches of the accused.

Learned counsel for the petitioner has submitted that the petitioners do not intend to challenge their conviction for the offences under Sections 323/325/34 IPC. However, it is submitted that the petitioners are facing the agony of criminal prosecution for the last more than twenty five years. They are not previous offenders. They were attributed causing of injuries to complainant Chaman Lal. Said Chaman Lal was found to have suffered four injuries on his person, when he was examined by Dr. J.P. Malik on 5.5.1991 at about 8.45 p.m. Apart from injury No. 1, the remaining three injuries were found to be simple in nature. The x-ray examination of injury No. 1, which was on the dorsum of left hand on lateral side at the back of little and ring finger was found to have resulted in a fracture. This injury was blunt in nature, being a defused swelling. Even otherwise,

none of petitioners was said to be armed with sharp edged weapons. According to the prosecution, accused Krishan Gopal was armed with iron rod, accused Abhey Singh and Mahender Singh were armed with lathies whereas accused Vijay Kumar and Sita Ram were empty handed. Prayer has, accordingly, been made for extending the benefit of probation to them.

Learned State counsel has opposed the prayer made on behalf of the petitioners by submitting that the shop in question was being used by complainant Chaman Lal for running a medical shop. In fact, he had taken the shop on rent from the accused party. He has also submitted that one of the injuries caused by the petitioners had resulted into a fracture and, therefore, they do not deserve to be granted the concession of probation.

As per the custody certificates produced by the learned State counsel, none of the petitioners is shown to be either involved or convicted in any other criminal case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioners behind the bars, once again, for undergoing their remaining substantive sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are set-aside. Instead, they can be ordered to be released on probation.

Resultantly, the conviction of the petitioners for the offences under Sections 323/325/34 IPC is upheld. Their substantive sentences of imprisonment on both the counts are set-aside. Instead, they are ordered to be released on probation for a period of one year subject to their furnishing bonds to the satisfaction of the Chief Judicial Magistrate, Rohtak, to keep peace and be of good behaviour during the said period and to receive the sentence as and when called upon to do so. The fine amount already deposited by the petitioners be considered as costs of litigation. In addition, the petitioners shall deposit an amount of Rs.3,000/- each with the trial Court, as compensation. In the event of the petitioners depositing the amount of Rs.3,000/-, each as compensation, it be disbursed to complainant Chaman Lal, as such.

The revision is, accordingly, disposed of.

November 7, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No