

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

CRR-1324-2007 (O&M)
Date of decision: 2.2.2016

Ranbir and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RA Sheoran, Advocate for the petitioners

Mr.Shivendra Swaroop, AAG, Haryana

SNEH PRASHAR, J.

Petitioners Ranbir and Devender were convicted for commission of offence under Section 323 and 325 read with Section 34 of the Indian Penal Code (for short 'IPC') vide judgment dated 27/28.7.2004 passed by learned Chief Judicial Magistrate, Bhiwani and vide order dated 28.7.2004, they were sentenced as under:

- (i) to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.500/- each and in default of payment of fine to further undergo simple imprisonment for 30 days under Section 325/34 IPC;
- (ii) to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.200/- each under Section 323/34 IPC.

The appeal filed by the petitioners was dismissed by learned Additional Sessions Judge (Fast Track Court), Bhiwani vide

judgment dated 6.8.2007, but the sentence awarded to them under Section 325/34 IPC was reduced to two years each with no change in fine clause and other sentence under Section 323/34 IPC.

FIR No. 467 dated 18.7.1997 under Sections 323, 325, 307 read with Section 34 IPC was registered on the statement made by complainant Vikram Singh, wherein he stated that on 14.7.1997 at about 6.00/6.30 PM, Devinder, Ranbir and his brother Bir Singh (since deceased) were indulging in scuffle with his brother Satbir in front of their house. When he tried to save his brother, Ranbir gave a 'lathi' blow on his head and Devinder gave a fist blow to his brother Satbir. His brother's wife Rajbala, who intervened to save them also received injuries. Gajraj son of Bani rescued them and the assailants ran away. The complainant and his brother Satbir were admitted in Civil Hospital, Bhiwani, but the condition of the complainant being serious, he was referred to PGI, Rohtak.

On completion of investigation and other formalities, final report under Section 173 of the Code of Criminal Procedure was presented in the Court. The accused were chargesheeted under Sections 323 and 325 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

To prove its allegations, prosecution examined as many as six witnesses. During the pendency of the trial, accused Bir Singh expired and the proceedings against him were dropped.

After closure of evidence of the prosecution, statements of the petitioners under Section 313 Cr.P.C. were recorded. They denied the incriminating evidence put to them and pleaded innocence.

Considering the submission made by learned Assistant Public Prosecutor for the State and of counsel representing the accused- petitioners and analysing the evidence brought on record, learned trial Court convicted and sentenced the petitioners as indicated above.

Feeling aggrieved, the petitioners filed an appeal, which was dismissed by learned Additional Sessions Judge, (Fast Track Court), Bhiwani vide judgment dated 6.8.2007 reducing the sentence from three years to two years under Section 325/34 IPC.

Feeling unsatisfied, the present revision petition had been filed.

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

At the very outset, learned counsel for the petitioners submitted that he does not wish to challenge the judgment of conviction passed by learned trial court and affirmed by learned First Appellate Court. But the petitioners being first offenders and poor persons having small children to support be released on probation under the Probation of Offenders Act, 1958. By now they are in their early thirties and are the sole earning member of their respective

families. They have never misused the concession of bail granted to them during trial as well as during pendency of the revision petition.

The statements of the witnesses regarding the incident and the injuries suffered by complainant Vikram, his brother Satbir and his wife Rajbala stand corroborated by the medical evidence offered by PW2 Dr. Anil Chaudhry, who examined them and prepared the Medico Legal Report Ex.PW2/A, Ex.PW2/B and Ex.PW2/C. All the three material witnesses identified the petitioners as the assailants. Accordingly, the conviction of the petitioners under Sections 323 and 325 read with Section 34 IPC is maintained.

Coming to the quantum of sentence and considering the submissions made on behalf of the petitioners, this Court finds that it is a fit case for giving the benefit of probation to the petitioners. At the time of occurrence, the petitioners were young boys, Ranbir being 19 years old and Devinder 22 years old, and by now they are married having wife and small children to support. They are facing protracted trial for the last more than 17 years. It is not the case of the prosecution that they have any other criminal case to their discredit.

In the above premise, the sentence qua imprisonment of the petitioners as imposed by learned trial Court and affirmed by learned First Appellate Court under Section 323, 325 read with Section 34 IPC is set aside. Petitioners are ordered to be released on probation under Section 4(i) of Probation of Offenders Act for a

period of one year subject to their furnishing personal bonds in the sum of Rs.20,000/- each with one surety in the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhiwani. The bonds shall be furnished within one month from the date of receipt of the certified copy of this order, failing which the present revision petition shall be deemed to have been dismissed.

It is further directed that both the petitioners shall keep peace and will bear good behaviour during the period of probation. The petitioners are further directed to deposit Rs.9000/- i.e. Rs.4500/- each, as litigation expenses, out of which Rs.3000/- is to be paid to Satbir, Rs.1000/- to Rajbala and Rs.5000/- to Vikram-complainant.

The revision petition stands disposed of accordingly.

2.2.2016
gsv

(SNEH PRASHAR)
JUDGE