

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

Criminal Revision 1542 of 2008

Date of Decision : November 21, 2016

Chandgi Ram		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Arjun Lakhanpal, Advocate
for the petitioner.

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

Mr. Zorawar Singh Chauhan, Advocate for
Mr. N.S.Shekhawat, Advocate
for the complainant.

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

The petitioner alongwith his wife Sheela Devi and son Sanju, was tried for committing offences punishable under Sections 323/325/34 IPC. Vide judgment and order dated 14.9.2006, learned Judicial Magistrate 1st Class, Mohindergarh acquitted Sheela Devi and Sanju accused of the charges against them. The petitioner was convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo imprisonment for fifteen days. He was also convicted under Section 325 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo

imprisonment for fifteen days. Both the sentences were ordered to run concurrently. The fine imposed was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Sessions Judge, Narnaul vide judgment dated 13.8.2008. Still not satisfied, he preferred the present revision, which stood admitted and his sentence of imprisonment was also suspended.

According to the prosecution, on 17.6.2002, the petitioner had misbehaved with Manoj, son of complainant Phoolwati. On the following day, i.e. 18.6.2002, when the complainant was returning home in the evening after answering the call of nature, Sanju accused raised a lalkara, which was followed by Sheela Devi accused catching hold of the complainant and the petitioner hitting the complainant on her mouth with stone and as a result, her teeth were shaken. When the complainant's son Manoj rushed to the spot on hearing the commotion, he was also given a lathi blow by the petitioner. The alarm raised by Manoj attracted Kanwar Singh to the spot, who rescued the complainant party.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offences under Sections 323 and 325 IPC. He has, however, submitted that the

petitioner is facing the agony of criminal prosecution for the last more than fourteen years. He is not a previous convict. He is a poor person and sole bread winner of his family. Out of the sentence of two years imposed upon him, he has already undergone a period of more than one month. Prayer has, accordingly, been made for extending the benefit of probation to him.

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer by submitting that it was the petitioner, who was responsible for causing an injury on the mouth of complainant Phoolwati and as a result upper canine tooth became shaken.

As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of one month out of the sentence of two years imposed upon him.

The offences, for which, the petitioner stood convicted are punishable with maximum sentence upto seven years. As is clear from the custody certificate, he is neither involved nor convicted in any other case. He is facing the agony of criminal prosecution for the last about fourteen years. Under these circumstances, it is a fit case for extending the benefit of probation to him.

Resultantly, the conviction of the petitioner for the offence

under Sections 323 and 325 IPC is upheld. His substantive sentences of imprisonment imposed on, both the counts, are set-aside. Instead, he is ordered to be released on probation subject to his furnishing bonds to the satisfaction of the Chief Judicial Magistrate, Mohindergarh at Narnaul with an undertaking to keep peace and be of good behaviour for a period of two years and to receive sentence as and when called upon to do so. The fine imposed upon the petitioner for both the offences and duly deposited by him be treated as costs of proceedings. In addition, he shall deposit an amount of Rs.10,000/- in the Court of the Chief Judicial Magistrate, Mohindergarh at Narnaul within three months from today, which amount when deposited, be disbursed in favour of complainant Phoolwati, as compensation.

The revision is, accordingly, disposed of.

November 21, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No