

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

Crl. Revision 1818 of 2008
Date of Decision : May 03, 2016

Hoshiar Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Madan Pal, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

Mr. Surender Deswal, Advocate
for the complainant.

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

The petitioner alongwith Randhir @ Dheera, Krishan and Raj Kumar was tried for committing the offences punishable under Sections 323/325/506 read with Section 34 IPC on the allegations that on 25.1.1999 at about 4.00 p.m., complainant Harpal Singh, an agriculturist by profession, alongwith his brother Gurjender and father Lahna Singh was watering his fields. Hoshiar Singh and Randhir @ Dheera, armed with a lathi each, came there. Hoshiar Singh proclaimed that despite his stopping the complainant party from watering the fields, they were still indulging in the same and, accordingly, a lesson would be taught to them. Hoshiar Singh gave lathi blows on the head, shoulder

and both knees of the complainant. When Gurjender and Lahna Singh tried to rescue him, Raj Kumar, Krishan and wife of Hoshier Singh also reached there while armed with lathis. They all gave lathi blows to Gurjender and Lahna Singh. When the villagers started collecting there, the accused decamped from the spot while carrying their respective weapons.

Subsequent to the registration of the FIR and investigation of the case, the final report under Section 173 Cr.P.C. was submitted against the petitioner as well as against Randhir @ Dheera, Krishan and Raj Kumar only.

Vide judgment and order dated 7.8.2007, learned Sub Divisional Judicial Magistrate, Narwana acquitted the petitioner and his co-accused of the charge under Section 506 IPC. However, they were convicted under Section 323 read with Section 34 IPC and sentenced them to undergo imprisonment for a period of four months each. They were also convicted under Section 325 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for nine months and to pay a fine of Rs.300/- each and in default of payment of fine, to undergo further imprisonment for a period of one month. Both the sentences were ordered to run concurrently. The amount of fine imposed on all the four convicts was duly paid by them.

Aggrieved of their conviction and sentences, the petitioner and his co-convicts filed appeal. Vide judgment dated

28.8.2008, learned Additional Sessions Judge-I, Jind upheld the conviction of the petitioner and his co-convicts. The sentences of imprisonment and fine imposed upon the petitioner and Randhir @ Dheera were upheld. However, Krishan and Raj Kumar were granted the concession of probation. Still not satisfied, the petitioner preferred the present revision which was admitted on 12.9.2008. Subsequently, vide order dated 24.9.2008, this Court suspended the sentence of imprisonment of the petitioner and released him on bail.

After hearing learned counsel for the parties and on going through the testimonies of PW2 Harpal Singh-complainant, PW3 Gurjender Singh and PW4 Lahna Singh, who all had received injuries in the occurrence in question and PW1 Dr. B.R.Kayat and PW5 Dr. Jai Singh, this Court is of the considered view that no case is made out for any interference in the conviction of the petitioner for the offences under Section 323 read with Section 34 IPC and Section 325 read with Section 34 IPC.

As regards the quantum of sentence, it may be noticed that during the trial of the case, the petitioner absented from appearing in the Court on a number of occasions and, accordingly, the trial took about eight years for its conclusion. Further, during the trial of the case, the petitioner was produced in custody as he stood lodged in jail in some other case. According

to learned counsel for the petitioner, the petitioner stood acquitted in the other case but that is not sufficient to extend the benefit of probation to the petitioner.

The petitioner has been facing the agony of criminal prosecution for the last more than seventeen years. The petitioner is not shown to be convicted in any other case. As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of three months and sixteen days out of the sentence of nine months.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the petitioner behind the bars, once again, so as to undergo the remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner for the various offences, as recorded by the trial Court, is upheld. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him. However, the amount of fine of Rs. 300/- imposed upon the petitioner for the offence under Section 325 read with Section 34 IPC is enhanced to Rs. 5,000/- and in default of the same, he shall undergo simple imprisonment for three months. The enhanced

amount of fine of Rs. 4700/-, if paid by the petitioner, be disbursed to complainant Harpal Singh as compensation.

But for the modification in the quantum of sentence of imprisonment and fine to the extent indicated above, the revision fails and is, therefore, dismissed.

May 03, 2016
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(T.P.S. MANN)
JUDGE