

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

**Criminal Revision 467 of 2008
Date of Decision : April 28, 2016**

Leela Ram and others	Versus	Petitioners
State of Haryana		 Respondent

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

Present : Mr. Krishan M. Vohra, Advocate for
 Mr. Sumeet Goel, Advocate

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

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

The petitioners were tried for committing offences punishable under Sections 452/323/324/325 read with Section 34 IPC on the allegations that on 4.1.1997 at about 10.40 p.m., they after trespassing in the house of complainant Ompati, caused injuries to her and her husband Bhalla Ram. Vide judgment and order dated 6/7.9.2005, the learned Judicial Magistrate 1st Class, Kaithal, convicted and sentenced them as under:-

- (i) Convicted under Section 323 read with Section
34 IPC and sentenced to undergo rigorous

imprisonment for one year and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days;

(ii) Convicted under Section 324 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days;

(iii) Convicted under Section 325 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days; and

(iv) Convicted under Section 452 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days.

All the substantive sentences of imprisonment were

ordered to run concurrently.

Aggrieved of their conviction and sentences, the petitioners filed an appeal. Vide order dated 29.2.2008, the learned Additional Sessions Judge, Kaithal, found no merit in the appeal and, accordingly dismissed the same. Hence, the present revision filed before this Court, which stood admitted on 11.3.2008 and they are on bail.

The case of the prosecution, in nutshell, is that complainant Ompati and her husband Bhalla Ram were labourers by profession. About 13/14 years ago, her husband purchased two and half marlas of Bara from Jeevna but brother of Jeevna, namely, Ram Kishan (one of the petitioners) had quarreled with him by saying that the Bara belonged to him and he was residing in the Bara for the last fourteen years by constructing two houses. There was civil litigation regarding the Bara. On 4.1.1997 at about 6.15 p.m., complainant Ompati and her husband Bhalla Ram besides their three children as well as her mother-in-law Phuilli were present in their house, when Ram Kishan armed with a Gandasi and Ramesh and Balwan armed with lathies entered their house. At that time, the complainant was preparing tea. Ramesh asked them to vacate the house. The complainant told him that the matter would be resolved in the presence of respectables. However, Ramesh did not listen to her and opened

an attack by giving a lathi blow on her hand. He also gave lathi blow on her head. In the meantime, her husband Bhalla Ram came forward to save her but Ram Kishan gave Gandasi blows on his head and leg. Balwan also attacked him with lathi, as a result of which, he fell down on the ground. In the meantime, Lilla and Buddu @ Naresh also came there armed with lathies and started beating them. After the occurrence, both complainant Ompati and her husband Bhalla Ram were taken for medical treatment to the hospital. As the condition of Bhalla Ram was deteriorating, he was referred to Civil Hospital Kaithal. She, accordingly, sought registration of case against the petitioners.

In support of its case, the prosecution had examined complainant Ompati as PW1 and her husband Bhalla Ram as PW2, who testified about the ocular account of the occurrence. The medical evidence was brought on record by way of testimony of PW3 Dr. Ranjit Ahlawat, who had medico-legally examined complainant Ompati and Bhalla Ram. The said doctor also proved the X-ray report, as per which, there was fracture on the left side of scapula on the body of Bhalla Ram.

When examined under Section 313 Cr.P.C. the petitioners denied the allegations against them and pleaded their innocence and false implication.

Both the Courts below after appreciating the evidence

brought on record by the parties, convicted and sentenced the petitioners, as mentioned above.

Having heard learned counsel for the parties and on going through the record as well as the impugned judgments passed by the Courts below, this Court is of the considered view that no case is made out for any interference in the conviction of the petitioners for the various offences, for which, they stand convicted. The ocular account has been brought on record by the prosecution by examining PW1 Ompati and PW2 Bhalla Ram. The medical evidence corroborates the ocular account. It is worthwhile to mention here that during her medico-legal examination, PW1 Ompati was found to have the following injuries on her person:-

- “1. There was an abrasion mark 1.5 cm X 1 cm on
back of right thumb. Fresh peeled skin is present.
Blood spot is also present over thumb.
2. There is complaint of pain in head.”

Similarly, Bhalla Ram, when medico-legally examined, was found to have suffered the following injuries:-

- “1. There is an incised wound on the left fronto parietal
region.
2. There is one lacerated wound 6 cm x 1 cm and bone
deep on the right fronto parietal region.

3. There is a lacerated wound 2 cm x 2 cm on the right parietal region.
4. There is diffused swelling 9 cm x 7 cm on the back of right elbow joint associated with an abrasion mark 1 cm X 0.5 cm.
5. There is contused mark on the left arm measuring 6 cm x 1.5 cm.
6. There is contused mark of 8 cm x 1.5 cm, on the back of the left shoulder.
7. There is an abrasion mark 1.5 cm x 0.5 cm on the back of right shoulder joint.
8. There is lacerated wound semicircular in the area of the size of 1 cm x 0.5 cm.
9. There is an incised wound 2 cm x 0.5 cm and bone deep on the front of the left leg which was 18 cm below the left knee joint and X-ray was advised for all the injuries.”

Other than Injury No. 6, which was a contusion of the size of 8 cm x 1.5 cm on the back of the left shoulder of PW2 Bhalla Ram, his remaining injuries as well as the injuries found on the person of PW1 Ompati were found to be simple in nature. Injury No. 6 of PW2 Bhalla Ram was declared grievous in nature on account of fracture of left scapula. Under these circumstances,

the conviction of the petitioners for the various offences is well merited and, accordingly, stands upheld.

As regards sentences, which may be imposed upon the petitioners for committing various offences, it may be noticed that the occurrence had taken place more than nine years back. The only grievous injury found on the person of PW2 Bhalla Ram and, that too, with a blunt weapon was on his left shoulder. Some injuries were received by Bhalla Ram on his head but those were declared as simple in nature. As per the custody certificates produced by the learned State counsel, none of the petitioners is shown to be a previous convict. Further, after being granted the concession of bail by this Court vide order dated 11.3.2008, they have not misused the concession in any manner. The cause of occurrence was one Bara measuring two and half marlas, which belonged to Jeevna, brother of petitioner Ram Kishan, but had been purchased by the complainant from said Jeevna about 13/14 years earlier to the occurrence.

Taking into consideration the totality of the circumstances, this Court is of the considered view that instead of sentencing the petitioners to various terms of imprisonment, they can be released on probation.

Resultantly, the conviction of the petitioners for the various offences, as ordered by the Courts below is upheld. Their

sentences of imprisonment are set-aside. Instead, they are ordered to be released on their furnishing appropriate bonds to the satisfaction of the Chief Judicial Magistrate to maintain peace and be of good behaviour for a period of one year and to receive punishment as and when directed by the Court. The sentence of fine imposed upon each of the petitioners shall be treated as compensation to be paid to complainant Ompati and her husband Bhalla Ram in equal shares.

The revision is, accordingly, disposed of.

April 28, 2016
amit rana

(T.P.S. MANN)
JUDGE