

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

CRR No.1581 of 2009.
Decided on:-12.07.2016.

Inam Khan.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Ashok Khubbar, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

Petitioner has filed the present revision petition against the judgment dated 30.5.2009 passed by learned Additional Sessions Judge, Yamuna Nagar whereby his appeal against the judgment of conviction dated 14.8.2007 and order of sentence dated 17.8.2007 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar was dismissed with certain modification in order of sentence.

Vide judgment dated 14.8.2007, learned Magistrate has held the petitioner guilty for committing offence under Section 324 IPC and vide separate order dated 17.8.2007 sentenced him to undergo rigorous

imprisonment for one year and to pay a fine of Rs.1,000/-. In case of non-payment of fine, the petitioner was required to further undergo simple imprisonment for a period of fifteen days. However, fine has been paid by the petitioner.

Briefly stated, case of the prosecution is that on 25.10.1998, HC Maya Chand recorded statement Ex.PB of complainant/injured Sham Lal. As per his statement, on 25.10.1998 at about 7.30/8.00 p.m., the complainant was returning to his village and while passing from the side of the shop of petitioner-accused Inam Khan, the accused started abusing him. The complainant objected it. Thereupon, the petitioner caught hold of him and engulfed him and gave two knife blows in his abdomen. The complainant raised alarm and hearing this, Ramesh Kumar and Gurnam Singh came there. They rescued the complainant from the clutches of the petitioner-accused. However, the petitioner ran away from the spot along with his weapon, but proclaimed that he would teach the complainant a lesson for demolishing the mosque and threatened to kill him as and when he gets a chance.

On the basis of aforesaid statement, FIR No.173 dated 25.10.1998 under Sections 323, 324 and 506 IPC was registered against the petitioner-accused at Police Station Radaur, District Yamuna Nagar and investigation was conducted. On completion of investigation, Challan was presented in the Court. The trial Court supplied copy of Challan to the petitioner free of cost as provided under Section 207 Cr.PC. Finding a

prima-facie case against the petitioner, the trial Court framed charge against him under Sections 323, 324 and 506 IPC to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution has examined as many as 10 witnesses and then closed its evidence. Thereafter, the statement of petitioner-accused under Section 313 Cr.PC was recorded wherein the accused denied all the allegations levelled against him and pleaded his false implication. However, no evidence was led by him in his defence.

The trial Court vide judgment dated 14.8.2007 acquitted the petitioner-accused under Sections 323 and 506 IPC, but convicted him under Section 324 IPC. Vide separate order dated 17.8.2007, the trial Court sentenced him in the manner as mentioned above.

The appeal preferred against the judgment of conviction and order of sentence was dismissed by the appellate Court on 30.5.2009 with the modification in the sentence, which was reduced from one year to six months RI.

It is in the aforesaid circumstances, the present revision petition has been filed by the petitioner.

During the course of arguments, learned counsel for the petitioner has contended that the petitioner does not wish to challenge the impugned judgment of conviction, rather, has prayed that the sentence awarded to him be reduced to the period already undergone by him. Thus, he has confined his arguments only qua the quantum of sentence. He has further

contended that the injuries caused by the petitioner to the complainant are on the non-vital part of the body and the same are as under:

- “1. Liner lacerated wound of size 4cmx1cm left Ioim, 5 cm above the iliacrest pointing downwards and medially.*
- 2. Lacerated wound of zigzag save in left lumbar region just in front of injury no.1.*
- 3. Lacerated wound of V-shape of size 1 cmx0.5 cm in the left renal angle.”*

Learned counsel for the petitioner has further submitted that the petitioner is facing the agony of criminal proceedings since the year 1998 and as against the awarded sentence of six months under Section 324 IPC, he has remained in custody for 1 month and 5 days.

On the other hand, learned State counsel has argued that learned trial Court has sentenced the petitioner to undergo rigorous imprisonment for one year under Section 324 IPC whereas learned appellate Court has reduced the sentence to the period of six months. Therefore, learned appellate Court has already taken a lenient view regarding the sentence of petitioner and thus no interference is warranted. Custody certificate filed by learned State counsel in the Court today, is taken on record.

I have heard learned counsel for the parties and gone through the impugned judgments of the Courts below.

On the issue of quantum of sentence, this Court in the case of

Shiv Kumar v. State of Haryana 2014(3) RCR (Criminal) 577 has observed as under:

“5. Considering the facts that the petitioner has been quite young when the occurrence took place, there is no previous conviction to this discredit and he has already suffered imprisonment for a period of one month and 24 days, I find him to have not crossed the age where his behaviour could not be corrected. Therefore, he appears to be entitled to be released on probation of good conduct. However, compensation in a sum of Rs.20,000/- would be just and proper to be paid by the petitioner to the victim, Sarla Devi.”

In the case of ***Sohan Lal v. State of Punjab 1979 CLJ (Criminal) 113*** where the accused was first time offender and had undergone the sentence of 3½ months, his sentence was reduced to the period already undergone by him. Similarly, in the case of ***Balwinder Singh v. State of Punjab CRR No.2874 of 2012 decided on 31.10.2012*** this Court had reduced the sentence of the accused therein under Sections 323, 328 and 326 IPC.

The custody certificate of the petitioner shows that he has never been involved in any other case except the present one and as against the awarded sentence of 6 months, he remained in custody for 1 month and 5 days though no remission was given to him.

Therefore, considering the fact that the petitioner has suffered a protracted trial since the year 1998 and there is no previous conviction to his discredit, coupled with the fact that he has already suffered incarceration for

a period of 1 month and 5 days, I find that the petitioner has not crossed the age where his behaviour cannot be corrected. As such, this Court feels that ends of justice would be met if the conviction of the petitioner is maintained, but the sentence awarded to him is reduced to the period already undergone by him.

Accordingly, the judgments of conviction passed by the Courts below are upheld. The present revision petition is dismissed with modification in sentence awarded by learned appellate Court to the effect that the sentence awarded to the petitioner is reduced to the period already undergone by him.

However, the petitioner is directed to deposit a sum of Rs.25,000/- as compensation before learned trial Court within a period of one month from the date of receipt of certified copy of this order. The trial Court shall disburse the said amount to the injured-complainant or his legal heirs, as the case may be. It is made clear that in case the petitioner fails to deposit the amount of compensation with the trial Court within the stipulated period, the present revision petition would be liable to be dismissed in toto and the petitioner shall have to undergo rigorous imprisonment for six months as awarded by learned appellate Court.

July 12, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE