

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

**CRR No.1320 of 2015 (O&M)
Date of Decision: October 04, 2016**

Om Parkash

...Petitioner

VERSUS

Sanjay and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Jasneet Mehra, Advocate for
Mr.L.M.Gulati, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Om Parkash under Section 401 Cr.P.C. against Sanjay and other respondents, challenging the impugned judgment of conviction dated 17.09.2013 and order of sentence dated 18.09.2013 passed by learned Sub Divisional Judicial Magistrate, Hansi, vide which accused-respondents No.1 to 6 were convicted under Section 323 read with Section 149 IPC and sentenced to pay fine of ₹1000/- each and also challenging the judgment dated 20.02.2015 passed by learned Addl. Sessions Judge, Hisar, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against accused-respondents in case FIR No.14 dated 11.01.2008 under Sections 148, 149, 447, 452, 323 and 506 IPC. The brief facts of the case as noted

down in the judgment passed by learned SDJM, Hansi, are as under:-

“2. Briefly stated the facts of prosecution case are that on 11.11.2008, complainant Om Parkash moved an application to the effect that he is resident of Namaund and has a shop at Budana Road in the name of Om Kiryana Store. He had taken the said shop on rent from Vinod Bhyana son of Shri Mahesh Chand in the year 1986 and till date, he is in possession of the same. Shri Vinod Bhayana had sold out said shop about 4 months before to Raldu son of Shri Chhailu Ram, V.P.O., Bhaini Amirpur, in respect of which litigation is pending in the Court. Today, at about 6.00 P.M., when he was sitting in his shop, Sanjay s/o Raldu, Kaptan s/o Ramkumar, Pavveen S/o Om Parkash, Satish S/o Rattan Singh, Vijay Pal S/o Raldu and Raldu son of Chhailu Ram along with 10 other men came to the shop. Om Parkash was armed with iron rod, whereas others were having sticks (Pandas) and they opened attack upon him. They also caused injuries to both of his sons namely Parveen and Naveen and locked the shop and threatened to kill him as well as his sons, in case they opened the shop again. Action was sought against the accused.”

Learned SDJM, Hansi, after appreciating the evidence, convicted and sentenced the accused-respodents as stated above. An appeal was filed by the petitioner-complainant for enhancement of the sentence and the same was dismissed by learned Addl. Sessions Judge, Hisar, vide judgment dated 20.02.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

After hearing learned counsel for the petitioner and after going through the record, I find that FIR was registered on the basis of the complaint filed by the present petitioner. As per the prosecution version, present accused-respondents along with other 10 persons came to the shop of the complainant. They were armed with iron rods and sticks and they opened attack on the complainant. It is also the prosecution version that they also caused injuries to both the sons of the complainant namely

Parveen and Naveen.

The perusal of the record, especially the judgments passed by the Courts below shows that MLRs have not been proved on the record by bringing the doctor as a witness. Therefore, the prosecution has failed to prove the specific injuries caused to the complainant or his sons. In view of the prosecution version and evidence on the record, which is mainly of complainant and PW-4 Naveen, son of the complainant, learned SDJM, Hansi convicted the accused-respondents under Section 323 read with Section 149 IPC.

Keeping in view the evidence on record and the fact that six accused persons have been convicted and they were suffering from the long protracted criminal proceedings since January 2008, I find that the sentence imposed by learned SDJM, Hansi is adequate and not liable to be enhanced. No other point has been argued except for enhancement of the sentence.

Therefore, finding no merit in the present revision petition, the same is dismissed.

October 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No