

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1728 of 2015 (O&M)
Date of Decision: May 18, 2016

Hem Raj

...Petitioner

VERSUS

Jasbir Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.M.S.Dhami, Advocate
 for the petitioner.

None for respondents No.1 to 4.

Mr.P.S.Grewal, Deputy Advocate General, Punjab
 for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Hem Raj against Jasbir Kumar and other respondents under Section 401 Cr.P.C., challenging the impugned judgment dated 23.02.2015 passed by learned Sessions Judge, SBS Nagar, vide which respondents No.1 to 4 were released on probation and they were also directed to pay costs of ₹7500/- each over and above fine.

Notice of motion was issued and learned State counsel appeared. However, none appeared on behalf of respondents No.1 to 4 despite service.

I have heard learned counsel for the petitioner as well as

learned State counsel and have gone through the record.

The brief facts of the case as noted down in the judgment passed by learned Sub Divisional Judicial Magistrate, Balachaur, are as under:-

“Accused Lehmbur Ram and his sons namely Ram Lal, Sarwan and Jasbir Kaur were forwarded by the Station House Officer of Police Station Kathgarh to face trial for having committed offence under sections 323 & 325 read with section 34 of Indian Penal Code, with the allegations that on 28.06.2010, at about 07:45 a.m., in the area of Village Natha Nangal, P.S.Kathgarh, accused Lehmbur Ram in furtherance of common intention of his co-accused namely Ram Lal, Sarwan and Jasbir Kumar had caused grievous as well as simple hurts to Hem Raj and other accused caused simple hurts to Hem Raj, regarding which formal complaint was made to the police by Hem Raj, on the basis of which F.I.R. of this case was registered. Accused were arrested during investigation and after completion of investigation, challan was presented in the court against accused Lehmbur Ram and his sons.”

Learned SDJM, Balachaur, after going through the evidence on record, convicted respondents No.1 to 4 under Sections 325, 323 read with Section 34 and sentenced them to undergo rigorous imprisonment for a maximum period of one year under Section 325 IPC along with fine. An appeal was filed by respondents No.1 to 4 and learned Sessions Judge, SBS Nagar, upheld the conviction of respondents No.1 to 4 but released them on furnishing probation bonds in the sum of ₹25,000/- each with one surety in the like amount, undertaking to be of good behaviour for a period of two years and also ordered to pay costs of ₹7,500/- each over and above the fine already imposed/paid before the trial Court, totaling to ₹30,000/-, 90% out of which was ordered to be paid to the

complainant/injured as compensation in terms of Section 357 Cr.P.C. and with this modification in the sentence part, the appeal filed by respondents No.1 to 4 was dismissed.

Aggrieved from the above-said judgment in appeal, the present petition has been filed by the petitioner-complainant.

From the record, I find that PW-5 Dr.Manohar Lal, found following injuries on the person of Hemraj:-

- 1) Lacerated wound 1.5 x 0.5 x 0.6cm deep on back of upper end of right forearm, 2.5cm below the point of elbow, margins reddish, fresh blood clots/bleeding present.*
- 2) Reddish contusion 5 x 3.5cm on back of upper & outer part of left side of chest, 16cm from midline & 5cm below the top of chest.*
- 3) Reddish abrasion 2.5 x 2cm on back of upper & outer part of right side of chest, 18cm from midline, 3 cm below top of chest.*
- 4) Reddish contusion 5 x 4cm on back of body over right buttock near its junction with back of trunk, it is 7cm outer & above the upper end of the natal cleft.*
- 5) Reddish abrasion 2.5 x 1.5cm on back of left elbow.*

Injury No.1 was declared grievous in nature. The perusal of the injuries shows that other injuries were simple abrasions or contusions except one injury i.e. lacerated wound and all these injuries were caused with blunt weapons.

Keeping in view the facts and circumstances of the present case, in no way, the judgment passed by learned Sessions Judge, SBS Nagar, releasing respondents No.1 to 4 on probation can be held as against the evidence and law. In no way, it can be held that private

respondents No.1 to 4 must be sentenced to undergo imprisonment. Nothing has been proved by the prosecution that private respondents have committed any other offence. The compensation has already been granted by learned Sessions Judge, SBS Nagar.

In view of the above discussion, I do not find any ground to interference in the judgment dated 23.03.2015 passed by learned Sessions Judge, SBS Nagar.

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

May 18, 2016
Vgulati

(INDERJIT SINGH)
JUDGE