

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

CRR No.10 of 2016 (O&M)
Date of Decision: August 12, 2016

Iqbal Singh and others

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jatinder Pal Singh, Advocate
for the petitioners.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Iqbal Singh, Gurmeet Singh and Tej Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 21.02.2014 passed by learned Chief Judicial Magistrate, Fazilka, vide which the petitioner Iqbal Singh was convicted under Sections 326, 325 and 323 IPC whereas petitioners Gurmeet Singh and Tej Singh were convicted under Sections 326, 324 and 323 IPC read with Section 34 IPC and all of them were sentenced to undergo rigorous imprisonment for a maximum period of two years under Section 326 IPC along with fine and also challenging the judgment dated 26.11.2015 passed by learned Addl. Sessions Judge, Fazilka, vide which appeal filed by petitioners was

dismissed. All the sentences were ordered to run concurrently.

At the time of preliminary hearing, this Court upheld the conviction of the petitioners vide order dated 01.03.2016 and notice of motion was issued only qua quantum of sentence.

Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioners in case FIR No.44 dated 16.03.2008. The brief facts of the case as noted down in the judgment passed by learned CJM, Fazilka, are as under:-

“2. The brief facts of the prosecution story are that on 16.3.2008 a request has been received by SHO with regard to admitting of injured Manjit Singh son of Harnek Singh, resident of Ajam Walaf, P.S.Khui Khera in Civil Hospital Abohar. ASI along with other police official reached at Civil Hospital Abohar. To whom injured Manjit Singh narrated his statement, the subject matter of the same was that he was resident of above said address and doing the work of agriculturist. On that day at 11:26 AM it was his turn of irrigating his land. He along with Baldev Singh son of Kartar Singh, resident of Village Ajamwala, whose land is situated adjoining to his field, reached at his field for irrigating the field. Baldev Singh also went there. The complainant constructed a room in his field. He after starting his turn he was coming to his room. Then Sham Singh son of Munsha Singh caste Jatt, resident of village Ajam Wala, who was armed with 12 Bore Gun along with him one Iqbal Singh son of Munsha Singh, Tej Singh son of Munsha Singh, Gurmit Singh son of Tej Singh and Beant Singh son of Sham Singh and two other unknown person who were armed with Dang and Gandasi came there. Sham Singh raised the pipe of gun and further raised lalkar that learned Manjit Singh a lesson for the dispute of land with Iqbal Singh son of Munsha Singh of Ajamwala. Iqbal Singh given blow of his Gandasi directly towards him which struck on the elbow of his right arm. He (Complainant) fell down then Iqbal Singh given another blow of Gandasi which struck of right arm under his elbow. Tej Singh son of Munsha Singh given blow of his dang which struck of his right shoulder and Gurmit Singh son of Tej Singh given another blow of dang which which struck on his right shoulder. Then the unknown person given another blows then complainant raised Raula Marditta-Marditta then Baldev Singh son of Kartar Singh, resident of Ajamwala came to his

fields. The accused ran away from the spot after snatching his golden chain and also took away his Wallet containing Rs.1500/-. Baldev Singh told his elder brother Sampuran Singh that the person injured him. His elder brother Sampuran Singh after arranging the vehicle took him to Civil Hospital where he was under medical treatment. The reason behind the quarrel was the complainant and his brother Sampuran purchase 5 killas of land from Dalbir Singh son of Arjan Singh resident of Ajamwala. After paying its consideration but the dispute with regard to the said land was still pending before the SDJM, Fazilka. All the above said accused want to favour Iqbal Singh son of Labh Singh i.e. was the main reason. The accused after preparing unlawful assembly injured him. The complainant after admitting his statement to be correct put his thumb impression. ASI put his endorsement on the statement and further police proceedings was also recorded. From the statements of witnesses and from the nature of injuries the offence under section 356, 324, 323, 148, 149 IPC read with section 25,27,54, 59 of Arms Act was made out. The Ruqa was sent through PHG Jammu Ram. The initial investigation was started on the receipt of x-ray examination report in which the injury no.4 was declared as grievous where as injury no.1 and 2 was declared simple. Hence, offence was enhanced to 326 and 325 IPC. The investigation was again handed over to ASI Darshan Singh and then the offence under section 326 was decreased. After recording the statements of witnesses and the completion of investigation, challan was prepared under section 173 Cr.PC under section 325/324/323/34 IPC and presented to court with the submission to summon the witnesses mentioned in the column no.6 of the list of witnesses and trial accordingly.”

Learned CJM, Fazilka, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioners and the same was dismissed by learned Addl. Sessions Judge, Fazilka vide judgment dated 26.11.2015.

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

Learned counsel for the petitioners argued that petitioners are suffering from criminal proceedings since the year 2008. He further contended that petitioners have already undergone about 8 months of actual

sentence as per custody certificates.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that petitioner Tej Singh and Gurmeet Singh have been summoned under Section 319 Cr.P.C. They are stated to be armed with *dang* only and simple injuries were attributed to them. As per prosecution version, Iqbal Singh was armed with *gandasi* i.e. deadly weapon and he caused grievous injury but on the non-vital part of the body i.e. on the arm.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are suffering from long protracted criminal proceedings since 2008 i.e. for the last about eight years and in view of the fact that petitioners have already undergone about 8 months of actual sentence, the sentence imposed upon the petitioners Tej Singh and Gurmeet Singh is reduced to the sentence already undergone by them and the sentence of petitioner Iqbal Singh is also reduced and he is directed to undergo rigorous imprisonment for a period of one year instead of two years under Section 326 IPC. However, the sentence of fine and in default thereof, imposed upon all the petitioners will remain the same. The other sentences passed in other offences qua Iqbal Singh will also remain the same. The sentences imposed upon petitioner Iqbal Singh are ordered to run concurrently.

With the above-said modification in the sentence, the present revision petition stands dismissed qua petitioner Iqbal Singh and stands partly allowed qua petitioners Tej Singh and Gurmeet Singh.

be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid. Petitioner Iqbal Singh, who is in custody, be released after completion of his sentence, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

August 12, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No