

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

**Criminal Revision No.1040 of 2016 (O&M)
Date of Decision: 04.05.2016**

Naseem

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

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

Present:- Mr. Aman Vashisht, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

Petitioner - Naseem son of Gafar, resident of H.No.23, Tilak Nagar, Yamuna Nagar has filed the present revision petition assailing the judgment dated 7.1.2016 passed by learned Addl. Sessions Judge, Yamunanagar at Jagdhri, whereby the appeal preferred by the petitioner against the judgment of conviction dated 14.1.2012 and order of sentence dated 17.1.2012 passed by Chief Judicial Magistrate, Yamuna Nagar at Jagadhri has been has been dismissed.

Briefly stated, the complainant Anil Kumar made a complaint that he is a student of B. Pharma in a college at Kaithal. On 3/4.8.2007 at about 2.30 P.M., petitioner-accused, who resides nearby and used to loiter in the night aimlessly, entered into his house. At the relevant time, the complainant and his mother and his younger sister were sleeping in the verandah. Incidentally, his hand touched with the hand of a boy and he got awakened. He found that somebody is under his cot. When he switched on the light, the said boy tried to flee. He tried to catch hold of him, but the boy hit him with a *danda*. In the meanwhile, father of the complainant and other members of the family and the neighbours were awoken. At that time, the petitioner hit the complainant with knife on his left hand and his hand started bleeding, to which, his family members started taking care of him. Taking advantage of the situation, the petitioner fled away towards the stairs and he jumped from the roof. Due to fall from the roof, he received injuries. The petitioner-accused threatened him with dire consequences.

On the basis of the aforesaid complaint, FIR No.240 dated 5.8.2007 under Sections 323, 326, 452, 506 IPC, P.S. Farakpur was registered against the petitioner. After completion of investigation and usual formalities, challan under Sections 323, 326, 452, 506 IPC was presented in the Court. Accordingly, the petitioner was charge sheeted for offence punishable under

Sections 323, 326, 452, 506 IPC, to which he pleaded not guilty and claimed trial.

Learned trial Court after hearing learned counsel for the parties and appreciating the evidence on record acquitted the petitioner of offences under Sections 452 and 506 IPC, however, he was convicted for commission of offence punishable under Section 323 and 326 IPC as under:-

<i>Name of Convict</i>	<i>Offence U/s</i>	<i>Imprisonment</i>	<i>Fine</i>	<i>Sentence in default of payment of fine</i>
<i>Naseem</i>	<i>323 IPC</i>	<i>Six months</i>	<i>--</i>	<i>--</i>
	<i>326 IPC</i>	<i>One year</i>	<i>500/-</i>	<i>Two months</i>

All the sentences were ordered to run concurrently.

Against the aforesaid judgment of conviction and order of sentence, the petitioner filed an appeal before learned Addl. Sessions Judge, Yamunanagar at Jagadhri, which was dismissed.

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

While issuing notice of motion, learned counsel for the petitioner had confined his arguments only on the point of quantum of sentence.

Learned counsel for the petitioner while reiterating his arguments states that the only injury attributed to the petitioner is

on the index finger and the complainant remained in hospital for one day and therefore, the sentence of the petitioner may be reduced to the period already undergone by him, as he has already suffered the agony of a protracted trial for more than eight years since the registration of the FIR on 5.8.2007 and it should be a sufficient mitigating circumstance to treat him leniently. Moreover, as against the awarded maximum sentence of one year, the petitioner is in custody for 5½ months. Learned counsel further submitted that the petitioner is a first time offender and he has never been involved in any other case except the present one.

Learned State counsel does not dispute custody period of the petitioner.

I have heard learned counsel for the parties and gone through the record of the case.

Reference may be made to judgment of this Court in the case of **Sohan Lal v. State of Punjab 1979 CLJ (Criminal) 113** wherein since 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.2574 fo 2012 decided on 31.10.2012** this Court has reduced the sentence of the accused therein under Sections 323, 325 and 326 IPC.

Considering the fact that the petitioner has suffered a protracted trial since the year 2007 and there is no previous

conviction to his discredit, coupled with the fact that he has remained in custody for a period of 5½ months out of the total awarded sentence of 1 year, this Court feels that ends of justice would be met if the sentence awarded to him is allowed to be reduced to the period already undergone by him.

Accordingly, while upholding the judgments of conviction passed by the Courts below, the present revision petition is dismissed, however, the sentence awarded to the petitioner is reduced to the period already undergone by him. The petitioner shall be released forthwith subject to payment of fine, if not paid or he is not found involved in any other case.

May 04, 2016
AK

(HARI PAL VERMA)
JUDGE