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

CRR No.1237 of 2016

Date of decision: August 09, 2016

Mehar Singh

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Ms. Sushma Chopra, Advocate
for the petitioner.

Mr. K.S. Sidhu, AAG Punjab.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the petitioner at length. She vehemently contended that the petitioner has deposited ₹10,000/- pursuant to the last order dated 01.06.2016 made by this Court. Petitioner has undergone the sentence of more than 6 months.

Looking to the role attributed to the petitioner from the findings recorded by the learned trial Judge, I find that the petitioner, since has undergone the sentence of more than 6 months and the sentence awarded to him is only 2 years and having no criminal antecedents, shall be given the benefit of the sentence, which has already undergone. I quote the relevant portion from the trial Court judgment as to the nature and injuries and weapons used:-

“xxxx. PW7 Dr. Surinder Kinra has proved on record the

MLR of injured Megh Singh as PW7/A. The offence under Section 326 IPC is attracted in the present case only upon the injury no.1 attributed to Massa Singh on the person of Megh Singh as PW7 has declared the injury no.1 grievous in nature on the basis of surgical opinion. The X-ray examination of injury no.1 was conducted by PW1 Dr. Renu Singla but during X-ray examination of injury no.1, no bony injury was seen or noticed. The surgical opinion on the basis of which injury no.1 was declared as grievous in nature is not brought on record nor the concerned doctor who gave the surgical opinion has come in the witness box. When on the X-ray examination of injury no.1 on the person of Megh Singh no bony injury was found then the injury no.1 cannot be considered as grievous in nature. So, no offence under Section 326 IPC is made out against the accused. PW7 Dr. Surinder Kinra in his testimony has declared the injury no.8 grievous in nature caused on the person of Megh Singh on the basis of X-ray report. The injury no.8 was caused by blunt weapon which was attributed to accused Massa Singh. The X-ray report has been duly proved on record by PW1 Dr. Renu Singh Radiologist as Ex.P2 and Ex.P3 on the basis of which injury no.8 was declared grievous in nature. The other injuries on the person of PW3 Megh Singh were simple in nature caused by blunt weapon except injury no.7 which was also declared simple in nature but caused by sharp edged weapon.

12. PW7 Dr. Surinder Kindra has also proved the MLR of complainant Swaran Singh Ex.PW7/E and as per the MLR, the injuries No.1, 3, 5, 6, 7 and 9 on the person of PW2 complainant were caused by blunt weapon and were declared simple in nature and injury no.2 and 5 on the

person of PW2 caused by sharp edged weapon were also declared as simple in nature. PW2 and PW3 have specifically attributed the injury no.2 and 5 to accused Massa Singh.”

In the light of the above, I think the present petitioner who does not have any criminal antecedents, should be let off and in the result, I make the following order:-

ORDER

- (i) CRR No.1237 of 2016 is partly allowed.
- (ii) The judgment and order of conviction of the petitioner for commission of offence punishable under Sections 324, 323, 325 IPC, is confirmed.
- (iii) However, the impugned judgment and order awarding sentence of 2 years, is modified and the sentence awarded to the petitioner is reduced to one which has already undergone by him. The petitioner shall pay fine, if not paid already.

(A.B. CHAUDHARI)
JUDGE

August 09, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No