

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

CRR No.1649 of 2016 (O&M)

Date of Decision: September 02, 2016

Narinder Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kanwaljeet Singh Brar, Advocate
for the petitioner.

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

Mr.P.K.S.Phoolka, Advocate
for the complainant.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Narinder Kumar against State of Punjab and other respondents, challenging the impugned judgment of conviction and order of sentence dated 06.07.2015 passed by learned Addl. Chief Judicial Magistrate, Bathinda, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Sections 452 and 325 IPC each and to undergo rigorous imprisonment for a period of six months under Section 323 IPC and one

year under Section 506 IPC along with fine of ₹500/- and in default of

payment of fine, to undergo rigorous imprisonment for a period of fifteen days under Sections 323 and 506 IPC each and also challenging the judgment dated 01.04.2016 passed by learned Addl. Sessions Judge, Bathinda, vide which appeal filed by petitioner was dismissed. All the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel as well as learned counsel for complainant appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.35 dated 28.03.2011. The brief facts of the case as noted down in the judgment passed by learned ACJM, Bathinda, are as under:-

“2. Adumbrated in brief, the case of the prosecution is that on 28.3.2011 telephone was received from civil hospital, Bathinda regarding admission of Kanta Rani wife of Kesho Ram and Chandresh Kumar residents of Housefed Colony, Bathinda in civil hospital, Bathinda due to injuries. Upon which HC Sohan Singh alongwith other police officials reached at Civil Hospital, Bathinda and moved a written request to doctor regarding fitness of patient for recording statement and doctor declared patient Kanta Rani unfit for making the statement and declared patient Chandresh Kumar fit to make the statement. Thereafter statement of complainant Chandresh Kumar son of Kesho Ram, resident of H.No.230, Housefed Colony, Bathinda was recorded to the effect that he is resident of abovesaid address and has installed a factory for oil. Today at about 8.00 a.m he was ready to go to his factory at Focal point, Dabwali road, Bathinda and he was about to take out his car and at that time his mother Kanta Ran was standing inside the house near the gate. Then in the mean time Narinder Kumar son of Roop Chand, who is his uncle, armed with iron rod came on motor

cycle No.RJ-31SA-0523 and he entered inside the house and started beating his mother with rod. He tried to save his mother, then accused gave rod blow towards him which hit on his left hand and accused gave one more blow which hit on his right hand. Due to injuries his mother fell down. They raised an alarm and neighbours gathered at the spot and accused Narinder Kumar fled away from the spot while threatening them. Thereafter, his brother Sandeep Kumar admitted them in civil hospital, Bathinda and where they were under treatment. Motive behind the occurrence is that earlier accused Narinder Kumar caused damage to their factory and also put their car on fire and at that time a case was registered against Narinder Kumar, but later on compromise was got effected by the relatives, but accused Narinder Kumar was nursing a grudge for that and due to which he caused injuries on their persons. After recording the statement, HC Sohan Singh initiated the proceedings and FIR was got registered against the accused for the offences under Section 452, 323, 506 of Indian Penal Code. On 29.3.2011 accused Narinder Kumar was arrested. On 31.3.2011 SI Gurvir Singh obtained report regarding nature of injuries on the person of Kanta Rani and doctor declared one injury as grievous and thereafter offence under Section 325 of Indian Penal Code was enhanced. On 11.4.2011 complainant produced call details and message details of his phone, which were taken into police possession. Statements of witnesses were recorded. On completion of investigation in all means and respects, challan against the accused was presented before this court.”

Learned ACJM, Bathinda, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Bathinda, vide judgment dated 01.04.2016.

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

Learned counsel for the petitioner argued that petitioner is first offender, poor person and he is suffering from the criminal proceedings since 2011 and he has already undergone actual sentence of about 6 months and 22 days including remission.

On the other hand, learned counsel for the complainant argued

that the present petitioner has caused injury, though the FIR has been quashed by this Court on the basis compromise. He further argued that even after the conviction in this case, the petitioner again caused the injury regarding which the police and relatives got effected a compromise. Learned counsel for the complainant also argued that so many cases are pending between the parties and one FIR has also been got registered against the complainant side.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that grievous injury is on the non-vital part of the body and further in view of the fact that petitioner is suffering from long protracted criminal proceedings since 2011 i.e. for the last about five years and petitioner has already undergone actual sentence of about 6 months and 22 days including remission of 1 month and 20 days, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one year instead of two years under Sections 452 and 325 IPC each. However, another sentence, sentence of fine and in default thereof, will remain the same. All the sentences shall run concurrently.

With the above-said modification in the sentence, the present revision petition stands dismissed.

September 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No