

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

CRR No.1834 of 2016 (O&M)
Date of Decision: September 06, 2016

Jagjit Singh alias Jagdev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.S.Sekhon, Advocate for
Mr.Amit Kumar Walia, Advocate
for the petitioner.

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

Mr.Aminder Singh, Advocate
for the complainant.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jagjit Singh alias Jagdev Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 22.07.2015 passed by learned Addl. Chief Judicial Magistrate, Sangrur, vide which the petitioner along with co-accused 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, to undergo rigorous imprisonment for a period of two months under Section 325 IPC and further to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/-

and in default of payment of fine, to undergo rigorous imprisonment for a period of 15 days under Section 323 IPC and also challenging the judgment dated 10.03.2016 passed by learned Addl. Sessions Judge, Sangrur, vide which appeal filed by petitioner was dismissed. Both 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 the complainant appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.93 dated 05.07.2012. The brief facts of the case as noted down in the judgment passed by learned ACJM, Sangrur, are as under:-

“2. The facts, in brief, of the prosecution case are that on 1.7.2012, a telephonic message was received in the police station regarding admission of Gurmel Singh son of Jeet Singh in the hospital and it was requested to send investigating officer, upon which H.C Bikker Singh along with P.H.G Raghwinder Singh reached at Civil Hospital Sangrur for recording the statement of injured and sought the opinion of the doctor concerned qua fitness of injured by moving an application. The doctor had declared the injured fit to make the statement. The complainant Gurmel Singh got recorded his statement with H.C Bikker Singh by stating that he is an agriculturist by profession. He is cultivating the land of Pritam Singh son of Isher Singh by taking the same on lease. On 30.6.2012, at about 9.00 p.m, he (the complainant) was coming from his fields to his house. When he had reached near the motor of Malkit Singh, then Jagtar Singh armed with 'takua', Jagjit Singh armed with stick and Chhota Singh armed with 'gandasa' were standing there. Thereafter, Jagtar Singh used opprobrious language and exhorted to teach complainant a

lesson for giving the land of Jeet Singh to Jagar Singh on lease. Thereafter, Jagtar Singh gave 'takua' blow towards the complainant, which landed on the little finger of his foot. Chhota Singh gave 'gandasa' blow, which hit on the backside of leg of the complainant due to which the complainant fell down. In the meantime, accused Jagjit Singh gave stick blows on the person of complainant.

3. On raising screams by the complainant, Jaswinder Singh son of Bant Singh reached there and rescued the complainant from the clutches of accused persons. Subsequently, all the assailants fled away from the spot. The complainant was taken to Civil Hospital Sangrur, where he was given treatment. The reason behind the dispute is that the accused persons are having grudge that he (the complainant) was instrumental in getting the land of Jeet Singh leased out to Jagar Singh.

4. On the basis of the aforesaid statement, the D.D.R was registered against the accused persons. The medical record of the injured/complainant was obtained. On 5.7.2012, x-ray films and opinion of the doctor qua injuries were obtained and the doctor had declared two injuries to be grievous. As such, a prima-facie case under Section 323, 325, 34 I.P.C was made out against the accused persons. The F.I.R was registered. Site plan was prepared and statements of witnesses under Section 161 Cr.P.C were recorded. On 7.7.2012, accused were arrested and were released on bail at the spot. The recoveries were also effected. Memos were prepared to that effect. The case property was deposited with police malkhana. After completion of investigation and necessary formalities, final report under Section 173 Cr.P.C was presented in the Court against the accused Rajinder Singh and Balwinder Singh.”

Learned ACJM, Sangrur, 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, Sangrur, vide judgment dated 10.03.2016.

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

Learned counsel for the petitioner argued that petitioner was only armed with stick and grievous injury attributed to him is on the non-vital part of body. He further contended that petitioner is first offender,

only bread earner of the family and he is suffering from the criminal

proceedings since 2012 and has already undergone actual sentence of 7 months and 21 days including remission.

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 the petitioner is first offender, only bread earner of the family and in view of the fact the petitioner is suffering from long protracted criminal proceedings since 2012 i.e. for the last about 4 years and has already undergone actual sentence of 7 months and 21 days including remission of 1 month and 25 days out of the total sentence and also in view of the fact that the grievous injury attributed to him is on the non-vital part of the body of the complainant, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner Jagjit Singh alias Jagdev Singh, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

September 06, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No