

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.2067 of 2016 (O&M)
Date of Decision: 24.08.2016

Raja alias Hardeep Singh
...Petitioner(s)
Versus
State of Punjab & another
...Respondent(s)

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

Present:- Mr. L.S. Sidhu, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

None for respondent no.2.

HARI PAL VERMA, J.

Petitioner - Raja @ Hardeep Singh has filed the present revision petition against the judgment dated 2.3.2016 passed by learned Additional Sessions Judge, Tarn Taran, whereby the appeal preferred by him against the judgment of conviction and order of sentence dated 13.3.2015 passed by Judicial Magistrate Ist Class, Tarn Taran has been dismissed.

Learned Magistrate vide judgment dated 13.3.2015 held the petitioner guilty for offence punishable under Sections 325/324 IPC and vide separate order of even date sentenced him as under:-

<i>S. No.</i>	<i>Name of the Convicts</i>	<i>Offence</i>	<i>Imprisonment</i>	<i>Fine</i>	<i>In default</i>
1.	Raja alias Hardeep	325 IPC	R.I. for one year	1500/-	R.I. for two

	<i>Singh</i>	<i>324 IPC</i>	<i>R.I. for six months</i>	<i>----</i>	<i>months</i>
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Both the substantive sentences have been ordered to run concurrently.

Briefly stated, the instant FIR No.85 dated 22.3.2012 under Sections 325/324 34 IPC Police Station City Tarn Taran was registered against the petitioner-accused on the basis of statement made by the complainant–Gurpreet Singh, to the effect that he works in the shop of one Baljinder Singh at Khalsapur, Tarn Taran and doing the work of fitting of filters. On 2.3.2012, the complainant, after taking certain material of filters from the shop of Dhami near Bridge Rohiwala, Tarn Taran, placed the same in the dickey of his motorcycle and was coming back to the shop. At about 4-00 p.m., when he reached in front of Modern Palace, the petitioner and an unknown person, who was sitting pillion to him, were coming on their motorcycle from wrong side. They struck to each other and fell down. Petitioner started abusing the complainant and inflicted the blow of big *karrah* in his right hand and forehead. The complainant tried to run away, but the petitioner took out an iron rod from the nearby shop and inflicted a blow on his shoulder and he fell down. The said unknown person dragged him. The complainant raised the cries of “Mar Ditta Mar Ditta”, upon which, one Rajbir Singh, who works in the shop with him, came and other people also gathered and rescued him and he was taken to the hospital. Since the respectables were trying to get the matter compromised, the complainant did not inform the police earlier. On the aforesaid facts, the instant FIR was registered and investigations conducted.

After completion of investigations, challan under Section 173 CrPC was presented in Court and copies of the documents were provided to the accused, as provided under Section 207 CrPC. Accordingly, charge under Sections 325/324 IPC was framed against the petitioner, to which he pleaded not guilty and claimed trial.

Learned trial Court after appreciating the evidence on record, convicted the petitioner-accused for having committed an offence punishable under Sections 325/324 IPC and sentenced him, as indicated above, vide judgment dated 13.3.2015.

Aggrieved from the aforesaid judgment of conviction and order of sentence dated 13.3.2015, the petitioner filed an appeal before learned Additional Sessions Judge, Tarn Taran and learned Appellate Court, dismissed the appeal vide judgment dated 2.3.2016.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition challenging the judgment dated 2.3.2016 passed by learned lower Appellate Court.

On 31.5.2016, learned counsel for the petitioner had argued that he had not challenged the impugned judgment on merits and confined his arguments *qua* the quantum of sentence only and therefore, notice of motion was issued to the aforesaid limited extent only. Therefore, learned counsel for the petitioners has confined his arguments with regard to quantum of sentence only.

Learned counsel for the petitioner submitted that the petitioner is a poor person and sole bread earner of his family. There is no other case pending against him and as against the awarded maximum sentence of one year, he has undergone actual sentence of 6 months and 5 days and by including the remissions earned by him, the total custody period comes to 7

months and 21 days. Learned counsel further submitted that the injuries inflicted upon the petitioner are on the non-vital parts of the complainant and therefore, considering the fact that the petitioner has suffered the agony of a protracted trial since 22.3.2012, when the instant FIR was registered, taking a lenient view in the matter, the sentence awarded to the petitioner be reduced to the period already undergone by him.

I have heard learned counsel for the parties and gone through the impugned judgments.

In order to determine the question of quantum of sentence, the Courts ought to weigh the degree of the culpability of the accused, its effect on others and the impact on the society. It is also of utmost importance that unnecessary leniency may not be shown while sentencing an accused, as it might have a cascading effect on the society as a whole and therefore, a balance has to be struck between the interest of the individual and the well being of the society. No doubt, a harsh punishment may serve as a deterrent, but at the same time, it would not benefit the convict in reforming himself, and thereby divesting the society of one of its constituents. The accused can learn more in society than in the company of criminals who are convicts.

This Court in the case of **Shiv Kumar v. State of Haryana** **2014(3) RCR (Criminal) 577** has observed as under:-

“5. Considering the facts that the petitioner has been quite young when the occurrence took place, there is no previous conviction to this discredit and he has already suffered imprisonment for a period of one month and 24 days, I find him to have not crossed the age where his behaviour could not be corrected. Therefore, he appears to be entitled to be released on probation of good conduct. However, compensation in a sum of Rs.20,000/- would be just and proper to be paid by the petitioner to the victim, Sarla Devi.”

Similarly, in the case of **Sohan Lal v. State of Punjab 1979 CLJ (Criminal) 113**, where 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.2874 fo 2012 decided on 31.10.2012** this Court had reduced the sentence of the accused therein under Sections 323, 328 and 326 IPC.

In the present case, the petitioner is stated to be a poor person and sole bread winner of his family. The custody certificate of the petitioner shows that he has never been involved in any other case except the present one and as against the awarded maximum sentence of one year, he has already undergone actual sentence of more than six months excluding remissions and by including remissions, it comes to 7 months and 21 days.

Considering the fact that the petitioner has suffered a protracted trial since the year 2012 and there is no previous conviction to his discredit, coupled with the fact that he has already undergone actual sentence of more than five months, I find that the petitioner has not crossed the age where his behaviour cannot be corrected. Therefore, this Court feels that ends of justice would be met if the conviction of the petitioner is maintained and the sentence awarded to him is 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, subject to the condition that the petitioner shall pay a sum of Rs.10,000/-, as compensation, to the injured-complainant over and above the fine imposed by the Courts below.

The petitioner be released forthwith on deposit of the aforesaid amount before the trial Court. On redemption of amount i.e. Rs.10,000/-, the same shall be disbursed to the injured-complainant.

August 24, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?	Yes / No
Whether reportable?	Yes / No