

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

Criminal Revision 3339 of 2014

Date of Decision : May 11, 2016

Harmesh Lal		Petitioner
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. G.S.Sidhu, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S.MANN, J. (Oral)

The petitioner was tried for committing offences punishable under Sections 323 and 324 IPC on the allegations that on 17.7.2008 at about 6/6.15 a.m., he inflicted four kapa blows to complainant Sukhdev Singh, one on his head and three on his back. Vide judgment and order dated 19/25.10.2012, learned Sub-Divisional Judicial Magistrate, Ellenabad, convicted him under Section 323 IPC and sentenced him to undergo simple imprisonment for three months and to pay a fine of Rs.300/-. He was also convicted under Section 324 IPC and sentenced to undergo simple imprisonment for five months and to pay a fine of Rs.800/-. Both the sentences of imprisonment were ordered to

run concurrently. In default of payment of fine, he was directed to undergo further simple imprisonment for one week. The fine imposed upon him was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated dated 4.10.2014, learned Sessions Judge, Sirsa, found the appeal to be meritless and, accordingly, dismissed the same. Hence, the present revision, in which, he is on bail.

Having heard learned counsel for the parties, this Court finds that PW1 Sukhdev Singh and PW2 Sahi Ram have deposed about the manner, in which, Sukhdev Singh was assaulted by the petitioner on 17.7.2008 at about 6/6.15 a.m., when he was repairing puncture of bicycle. Their testimonies stand duly proved by PW3 Dr. Shiv Rattan, who medico-legally examined complainant Sukhdev Singh on 17.7.2008 and found the following injuries on his person:-

- “(i) Bruise with swelling 4 x 3 cm irregular shape/direction oblique over left occipital temporal region.
- (ii) Incised wound 2.5 x 0.5 x 0.5 cm spindle shape direction horizontal over back of upper half of both side of neck.
- (iii) Incised wound 4 x .5 x .5 cm spindle

shape/direction oblique over medial border of right scapular region of back near midline.

- (iv) Abraded bruise 3 x 0.5 cm irregular shape/direction oblique over right scapular region.”

Under these circumstances, no fault can be found with the conviction of the petitioner for the offences under Sections 323 and 324 IPC.

Learned counsel for the petitioner has submitted that the petitioner is a poor person and having large family to support. He has two sons besides his wife and old parents to look after. In this regard, he has drawn the attention of the Court to the copy of the ration card (Annexure P1) and voters list (Annexure P2). He is facing the agony of criminal prosecution for the last about eight years. It is also submitted that he is not a previous convict and the injuries caused by him to Sukhdev Singh were declared simple in nature. Prayer has, accordingly, been made for granting the benefit of probation to him.

Learned State counsel has opposed the prayer by submitting that the petitioner had caused four injuries on the person of Sukhdev Singh, two of them were incised in nature while the other two bruises. One of the incised injury was on the neck while one bruise on the left occipital temporal region. As the

petitioner had caused injuries on the vital parts of Sukhdev Singh, he does not deserve the benefit of probation. Learned State counsel has, however, produced the custody certificate, as per which, the petitioner has already undergone a total sentence of one month out of the sentence of five months imposed upon him.

Having heard learned counsel for the parties, this Court is of the considered view that the petitioner is not entitled to the benefit of probation. He was armed with kapa at the time of accident, which he wielded in causing injuries, four in number, on the person of Sukhdev Singh. Two of the injuries were on his vital parts i.e. on the neck and head. Merely because, all the injuries were simple in nature is not sufficient to set-aside his sentence of imprisonment and instead, release him on probation. At the same time, no useful purpose will be served by sending him behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met, if the sentences of imprisonment on both the counts are reduced to the one already undergone by him. Simultaneously, the fine imposed upon him can be suitably enhanced so as to disburse it to complainant Sukhdev Singh, as compensation.

Resultantly, the conviction of the petitioner for the offences under Sections 323 and 324 IPC is maintained. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him. In addition to the fine imposed and already deposited by him, he shall pay an amount of Rs.5000/- to be deposited with the trial Court within three months from today or in default thereof he shall undergo simple imprisonment for two months. The additional amount of fine, if deposited by the petitioner be disbursed to complainant Sukhdev Singh, as compensation.

The revision is, accordingly, disposed of.

May 11, 2016
amit rana

(T.P.S. MANN)
JUDGE