

**226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR No.4596 of 2015 (O&M)****Date of Decision: February 09, 2016****Dharam Pal****.... Petitioner****vs.****State of Haryana****.... Respondent****CORAM: HON'BLE MR. JUSTICE KULDIP SINGH****Present:** Mr. Ashok Kaushik, Advocate for the petitioner.

Ms. Supriya Arora, AAG, Haryana.

*1. Whether Reporters of Local Newspapers may be allowed to see the judgment?**2. To be referred to the Reporters or not?**3. Whether the judgment should be reported in the Digest?***Kuldip Singh J.(Oral)**

Petitioner Dharampal by way of filing the present revision petition has challenged the judgment dated 02.11.2015 passed by learned Addl. Sessions Judge, Palwal, affirming the judgment of conviction dated 18.04.2014 and order of sentence dated 22.04.2014 passed by learned Addl. Chief Judicial Magistrate, Palwal, whereby the petitioner was convicted and sentenced as under:

Sr. No.	Offence punishable u/s	Sentence(R.I.)	Fine (₹)	In default of payment of fine
1	323 r/w 34 IPC	6 months	--	--
2	324 r/w 34 IPC	1 year	500/-	1 month (S.I.)
3	326 r/w 34 IPC	2 years	1,500/-	3 months (S.I.)

All the sentences were directed to run concurrently.

The present case was registered on the statement of victim Sunder, wherein he stated that on 11.06.2008 at about 7.30

p.m., he was coming back from Mohan Nagar. When he reached in front of a sweets shop and was in process to cross the railway line, then three boys, namely, Ravinder Dagar, Maruti @ Dharampal (present petitioner) and Brijesh attacked him with a knife. He received injuries on his forehead, belly and left foot. All the three assailants left him in the injured condition. He was taken to B.K. Hospital, Faridabad. Learned Addl. Chief Judicial Magistrate, Palwal on the basis of evidence led before him, held that the charges levelled against the petitioner are proved and he was, accordingly, convicted and sentenced as aforesaid. The findings were upheld in appeal.

The plea of learned counsel for the petitioner is that in the statement of PW2 Savitri, the present petitioner Dharampal was not identified. She had stated that Brijesh and Ravinder Dagar along with third person were found standing and that his son was injured and thrown on the railway line.

Learned counsel for the petitioner has relied upon the statement made by the complainant as PW7 before the lower court, wherein he had stated in his cross-examination that Maruti @ Dharampal (present petitioner) and Brijesh did not give knife blow to him. When the statement of Sunder, PW7 is read as whole, he has clearly stated that he was assaulted by Brijesh, Maruti @ Dharampal (present petitioner) and Ravinder Dagar. He was given leg, fist and *danda* blows. Then one of the assailants gave knife blow to him but he does not know, who gave him the knife blow. He became

unconscious and fell down on the ground. Therefore, the fact remains that all the three assailants jointly assaulted the complainant and gave leg, fist and *danda* blows to him and one of them gave him knife blow.

The medical evidence shows as many as 5 injuries were found on the person of the complainant, which are as under:

- “1. 1”&1/2”x1/4” spindle shaped incised wound on the left parietal aspect of the skull. Bleeding is fresh. Cut end of the hairs present.*
- 2. 1/2”x1/4”x3 mm. incised wound on the left eyebrow. Bleeding is fresh.*
- 3. A 1”x1/4”x depth cannot be assessed. Spindle shaped incised wound present on the lateral side of the left lower chest. Bleeding is fresh.*
- 4. An incised wound 1”x1/4”x depth cannot be assessed present on the lateral side of the mid of the left thigh.*
- 5. An incised wound 1/2”x1/4”x1/4” present on the lateral side of the mid of the left thigh just below the injury No.4.”*

The statement of PW4 Dr. Lokveer, Dy. C.M.O. shows that on the radiograph examination, it was found that there was collapse lung left due to mediastinal shift with fluid on left side pleural cavity as homogenous shadow. It goes to show that the injury on the chest was in fact dangerous to life. However, the prosecution never presented the challan under Section 307 IPC nor the accused was charged and tried for the offence punishable under Section 307 IPC.

In any case, the said injury falls within the definition of grievous injury. The plea of learned counsel for the petitioner that the knife blow was not given by the petitioner Dharampal, therefore, he should be granted the benefit of doubt, is not acceptable.

Petitioner Dharampal participated in the crime. If one of the accused in furtherance of the common intention of the other co-accused commit any crime, all the accused are liable to be punished under Section 34 IPC and the petitioner was rightly convicted under Section 34 IPC.

It being so, there is no illegality or infirmity in the findings recorded by both the courts below.

Keeping in view the gravity of the injury, there is no scope for reduction in the sentence as well.

Consequently, the present revision petition stands dismissed.

February 09, 2016
sarita

(KULDIP SINGH)
JUDGE