

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4614-2015 (O&M)
Date of Decision: February 10, 2016

Kuldeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Jitender Singh Dadwal, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

1. *Whether Reporters of local papers 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?*

NARESH KUMAR SANGHI, J. (Oral)

Challenge in this criminal revision petition is to the judgment, dated 3.11.2015, passed by learned Additional Sessions Judge, Ludhiana, whereby the appeal filed by the petitioner, Kuldeep Singh, challenging his conviction and sentence for the offences punishable under Sections 294/34, 323/34 and 325/34, IPC, recorded by learned Judicial Magistrate First Class, Jagraon, District Ludhiana, was dismissed.

On 8.12.2015, when the revision petition came up for

preliminary hearing before this Court, at that time learned counsel for the petitioner impressed upon not to contest the present revision petition on merits, but prayed for considering the case for releasing the petitioner on probation.

Notice of motion was issued.

In pursuance thereto, learned counsel for the State has appeared.

Both the counsel contend that the present revision petition can be disposed of at this stage.

Learned counsel submits that the petitioner had some matrimonial dispute with his wife and in consequence thereof a Panchayat was convened in the village of the petitioner which was attended by several persons including Baljit Singh, informant/injured from the side of the wife of the petitioner. During the Panchayat, a quarrel had originated in which the petitioner alleged to have caused three injuries including an injury on the lip which resulted into abstraction of central incisor from lower jaw and another losing its place. Three persons including the petitioner were booked vide FIR No. 224, dated 12.9.2009, for the offences punishable under Sections 294, 323 and 325 read with Section 34, IPC, by Jagraon Police.

After investigation, charge-sheet was presented;

charges were framed and after leading of the prosecution evidence, the petitioner and his two co-accused were convicted and sentenced for the offences to which they were charge-sheeted.

Dis-satisfied with the judgment of conviction and sentence, an appeal was presented before learned Additional Sessions Judge, which was partly allowed and the co-accused of the petitioner were acquitted while the appeal of the petitioner was dismissed. His conviction and sentence was maintained. Still dis-satisfied with the dismissal of his appeal, the petitioner has approached this Court by way of present criminal revision petition.

Learned counsel further contends that though the learned Courts below have not extended the benefit to the petitioner on merits, but those shortcomings in the prosecution case can very well be considered while considering the quantum of sentence; the on-going matrimonial dispute with the wife of the petitioner has been resolved and a divorce has been granted by the Panchayat and in consequence thereof the petitioner and his wife are living separately; Kuldeep Singh (petitioner) and his wife have solemnized the second marriage with their respective spouses; there is no adult male member in

to look after the wife and children of the petitioner; the injuries caused to Baljit Singh have healed and he is performing his all pursuits as a normal man; the petitioner has faced the agony of trial, appeal and present revision petition for approximately seven years; and that the petitioner has already suffered incarceration for more than three months and, as such, he can be released after reducing his sentence to the period already undergone. He further submits that a fine of rupees two-thousand and five hundred in total was imposed, which has already been paid. The petitioner is still ready to adequately compensate the injured, Baljit Singh.

Learned counsel for the State has produced the affidavit of the Superintendent, Central Jail, Ludhiana, showing the period of incarceration suffered by the petitioner, which is taken on record.

Though the notice was issued for the limited purpose of consideration of quantum of sentence and learned counsel for the petitioner has also confined his arguments to that extent, yet to satisfy the conscience of this Court, the material available on record has been rescanned and it is found that on account of a matrimonial dispute between the petitioner and his wife, Baljit Singh (injured), who was attending the Panchayat from the side

of the wife of the petitioner, had suffered two abrasions on his eye-lid and upper lip while his one incisor was abstracted and another was dislocated. During the pendency of the present criminal case, the petitioner and his wife sought divorce and thereafter arranged their marriages with their respective spouses and living peacefully. No untoward incident had taken place during pendency of the trial and appeal when the petitioner was on bail. The petitioner has already suffered incarceration for three months and six days, as per the affidavit placed on record by learned counsel for the State. The affidavit would also reveal that the petitioner has earned jail remission for ten days, which would show that the petitioner is in process of improving himself. The occurrence is of 2009 and approximately seven years have elapsed.

In view of totality of the facts and circumstances of the case, the sentence awarded to the petitioner is reduced to the period already undergone, i.e. three months and sixteen days including remission. The fine imposed by learned Court below, i.e. total rupees two-thousand and five hundred, for three counts is enhanced to rupees twenty thousand, which shall be paid as compensation to the injured, Baljit Singh. The enhanced fine shall be deposited with learned Trial Court/Successor Court

within one month of passing of this order. Learned Trial Court shall issue notice to the injured, Baljit Singh, to withdraw the amount of fine/compensation as per norms. In case the petitioner failed to deposit the amount of fine/compensation imposed by this Court within the stipulated period, then the substantive sentence awarded by learned Court below shall enure.

The petitioner is stated to be in custody. He be set at liberty at once if not required in any other case.

Criminal revision petition is partly allowed.

(NARESH KUMAR SANGHI)
JUDGE

February 10, 2016
Pkapoor