

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.464 of 2016 (O&M)****Date of Decision: March 31, 2016**

Lakhwinder Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.B.S.Goraya, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Lakhwinder Singh against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 02.06.2015 passed by learned Sub Divisional Judicial Magistrate, Ajnala, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹2000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 326 IPC and to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹500/- in default of payment of fine to undergo rigorous imprisonment for a period of fifteen days under Section 323 IPC and also

challenging the judgment dated 06.11.2015 passed by learned Addl. Sessions Judge, Amritsar vide which appeal filed by petitioner was dismissed.

From the record, I find that in the present case, challan has presented against present petitioner-accused Lakhwinder Singh in case FIR No.21 dated 08.02.2011 under Sections 326, 325 and 323 IPC registered at Police Station Ajnala. The brief facts of the case as noted by learned SDJM, Ajnala, in its judgment are as under:-

“The present case was registered on the statement of complainant Jagjit Singh son of Darshan Singh resident of Harrar Khurd, Tehsil Ajnala, Distt. Amritsar. The complainant got recorded his statement that he is permanent resident of the above address and he is an agriculturist. He has a truck bearing registration no. PB-5-P -9515 Ashok Laylond and Lakhwinder Singh son of Mukhtair Singh, Jat, r/o. Harrar Khurd was his driver of the said truck. Lakhwinder Singh took advance of Rs.5800/-. On 06.02.2011 at about 1.15 P.M., when he was present at his house, Lakhwinder Singh came and made a demand of Rs.10,000/-. He told him that he had already given extra money to him and not in position to give more money. There arose verbal altercation between them, then Lakhwinder Singh, who was armed with gandasi gave four blows from the reverse side of the gandasi to him, which hit on the index finger of his right hand and in front of his chest, on his head and on the elbow of his left hand and during the scuffle they came outside in the street from the house. Then Lakhwinder Singh gave gandasi blow to him which hit on the left elbow of his arm. He raised alarm mar-ditta mar-ditta. On hearing noise people gathered there. The whole occurrence was witnessed by his brother Iqbal Singh and Harpreetpal Singh and the accused fled away from the spot with his weapon. Then his brother Iqbal Singh took him to Civil Hospital at Ajnala, where he as medico legally examined and his statement was recorded by the Police requesting for taking action against the accused.

3. On these allegations, the present case was registered. Investigation was started. Accused Lakhwinder Singh was arrested and on completion of formal investigation and other formalities, challan was presented in the Court.”

Learned SDJM, Ajnala, after discussing the evidence on record, convicted and sentenced accused Lakhwinder as stated above. An appeal was filed by the petitioner and learned Addl. Sessions Judge, Amrtisar, vide judgment dated 06.11.2015 dismissed the appeal.

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

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 for reduction of sentence. Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

At the time of arguments, learned counsel for the petitioner argued that petitioner is poor person and aged about 55 years. He further contended that petitioner has two children, who are studying in plus 10+1 and 10+2 classes, his wife is a housewife and petitioner is sole bread earner of the family and is suffering from the criminal proceedings for the last more than five years. It is also argued that injury attributed to the petitioner is on the non-vital part of the body i.e. on the elbow.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case that the petitioner is stated to be poor person having two children, only bread earner of the family and first offender, and in view

of the fact that the petitioner is suffering from long protracted criminal proceedings for the last more than five years and the injury attributed to him is on the non-vital part of the body i.e. elbow, the sentence of the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of six months under Section 326 IPC instead of two years. However, the sentence under Section 323 IPC and sentence of fine will remain the same. Both the sentences are to run concurrently.

Therefore, the present revision petition stands partly allowed. Petitioner Lakhkwinder Singh, who is in custody, be released, after completion of sentence, subject to payment of fine, if already not paid.

March 31, 2016
Vgulati

(INDERJIT SINGH)
JUDGE