

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

**CRR No.825 of 2016 (O&M)
Date of Decision: February 29, 2016**

Ashok Kumar and others Petitioners

vs.

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajiv Sharma, Advocate for the petitioner.

- 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)

Impugned in the present revision petition is the judgment dated 06.01.2016 passed by learned Sessions Judge, Narnaul, vide which the appeal filed by complainant Vikas was allowed and the appeal filed by accused-petitioners was dismissed and the judgment of conviction 24.02.2015 and order of sentence dated 26.02.2015 passed by the learned Judicial Magistrate 1st Class, Mahendergarh, were modified to the extent that petitioners were sentenced to undergo rigorous imprisonment for 2 years each and to pay a fine of ₹5,000/- each and in default thereof to undergo further rigorous imprisonment for 2 months each for the commission of offence punishable under Section 325 read with Section 34 IPC. The sentence of rigorous imprisonment of 6 months each for the commission of offence punishable under Section 323 IPC passed by the lower court was also maintained.

I have heard learned counsel for the petitioners and have also carefully gone through the case file.

The allegations against the petitioners-accused are that on 17.06.2009 at about 10.30 a.m. Vikas complainant was assaulted by all the three petitioners-accused. Ashok fired bullet below his knee and accused Bhim hit him with iron rod on left elbow, followed by axe blow on left side of his forehead and ear.

The medical evidence shows that there were following six injuries on the person of Vikas, complainant when he was examined on 17.06.2009 at 12.40 p.m:

- “1. Injury to left leg, fresh bleeding present deformity present? Compound fracture. Advised X-ray leg bones- AP and lateral view.*
- 2. Laceration left side of forehead around 2x1 cm fresh bleeding present advised X-ray skull AP and lateral view.*
- 3. Swelling left forearm. Tenderness present fresh bleeding present. Advised X-ray left elbow with forearm bones AP and lateral view.*
- 4. Lacerated wound at palmer surface of base of right thumb. Advised X-ray right hand AP and lateral view.*
- 5. Lacerated wound at left ear pinna which have perforated the pinna around 2cmx1cm.*
- 6. Injury D.L. Spine with injury right lower chest no marks of any external injury seen, advised chest X-ray marks of any external injury seen, advised chest X-ray PA view, USG whole Abdomen, X-ray D.L. spine AP and lateral view. Neuro Surgeon opinion. Ortho opinion. ENT opinion. Surgeon opinion.”*

The trial court had acquitted all the petitioners-accused of the charges framed under Section 325 IPC on the ground that X-ray report of injured Vikas was not produced. The findings were reversed in appeal.

I am of the view that the findings of the trial court were rightly reversed by the first appellate court. Even if, X-ray report is not produced, in the given circumstances, the statement of the doctor is sufficient to prove the grievous nature of the injuries. Injury No.1 was a compound fracture on the left leg. Injury No.5 was a lacerated wound on the left ear pinna, which perforated the pinna around 2cmx1cm and injury No.6 was an injury on the spine. In these circumstances, there is nothing wrong with the findings recorded by learned Sessions Judge, Narnaul in believing the statement of the complainant. Such injuries cannot be self inflicted nor caused by friendly hand.

Learned counsel for the petitioners-accused presses the present revision petition on the point of reduction of the sentence awarded to the petitioners-accused.

Keeping in view the facts and circumstances of the case, sentence of rigorous imprisonment of 2 years each awarded to the petitioners-accused for the commission of offence punishable under Section 325 read with Section 34 IPC is reduced from 2 years to 1-½ years each. However, the remaining part of the sentence under the said Section and other other Section is maintained.

With the aforesaid modification, the present revision petition stands dismissed.

February 29, 2016
sarita

(KULDIP SINGH)
JUDGE