

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

**CRR No.1972 of 2008 (O&M)
Date of Decision: February 21, 2017**

Rajbir

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pankaj Middha, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Rajbir against respondent State of Haryana, challenging the impugned judgment of conviction dated 03.06.2008 and order of sentence dated 04.06.2008 passed by learned Chief Judicial Magistrate, Jind, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of two months under Section 326 IPC and also challenging the judgment dated 05.09.2008 passed by learned Addl. Sessions Judge-III, Jind, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against

petitioner in case FIR No.81 dated 27.06.2002. The brief facts of the case as noted down in the judgment passed by learned CJM, Jind, are as under:-

“2. In nut shell the case of the prosecution is that complainant Smt.Parkashi is the wife of accused Rajbir who used to reside separately from her at Jind for the last four years. On 23.6.2002 at about 4.00 PM in the area of village Pegan the accused voluntarily caused grievous injuries on the person of complainant Smt.Parkashi with a Kassi when she was present at her house in village Pegun. The cause of dispute between the parties was over previous litigation got initiated by the complainant against the accused. The complainant raised alarm and on hearing the noise, her sister Bimla alongwith her husband Basau attracted to the place of occurrence, who rescued the complainant out of the clutches of the accused. The complainant reported the matter to police vide statement Ex.PA and on that basis present case was registered against the accused. The accused was formally arrested. The rough site plan of the place of occurrence was prepared. The statements of witnesses under section 161 Cr.P.C. were recorded. After completion of all usual steps of necessary investigations, challan was prepared and put forward to this Court.”

On presentation of challan, charges were framed against the petitioner under Sections 324 and 326 IPC, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Smt.Parkashi, PW-2 Basau, PW-3 Dr.M.L.Kochar and PW-4 ASI Ishwar Singh.

Accused was examined under Section 313 Cr.P.C. and he denied the correctness of the evidence and pleaded himself as innocent. No witness was examined in defence.

Learned CJM, Jind, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge,

Jind, vide judgment dated 05.09.2008.

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

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

The perusal of the record shows that PW-1 Smt.Parkashi has deposed as per prosecution version and stated that accused caused grievous injuries to her with a spade when she was sewing the clothes in her house. The motive was also there that Parkashi has strained relations with the accused. PW-2 Basau, who is eye witness to the occurrence, has also consistently deposed as per prosecution version.

At the time of arguments, no material contradictions or improbabilities have been pointed out. Nothing has been argued as to how the findings given by both the Courts below are perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below.

PW-3 Dr.M.L.Kochar has been examined and he has deposed that he radiologically examined Parkashi and found fracture of parietal bone of skull in the X-ray. His report is Ex.PW3/A and X-ray films are Ex.PW3/B to PW3/E. This doctor examined the complainant injured radiologically and found fracture in the parietal bone of skull and has proved the X-ray films and duly proved the grievous injury suffered by Parkashi. The mere fact that MLR has not been proved, will not be fatal to the prosecution case. Injury No.1 suffered by the complainant as grievous has been duly proved.

The complainant has deposed regarding two injuries on her

person. Injury No.1 on the head, has been duly corroborated by the doctor. The second injury deposed by the complainant on the thigh has not been proved in the absence of the medico-legal report. Therefore, learned CJM, Jind, has acquitted the accused under Section 324 IPC and rightly convicted him under Section 326 IPC.

The findings given by both the Courts below are correct, as per evidence and law. The prosecution has duly proved its case by leading cogent evidence. The complainant injured and eye witness are reliable witnesses and their statements have been duly supported by investigation of the case as well as medical evidence.

In view of the above discussion, I find that the impugned judgments passed by both the Courts below are correct, as per evidence and law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

As petitioner Rajbir is on bail, his bail bonds stand cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

February 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No