

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

**CRR No.2014 of 2012 (O&M)
Date of Decision: January 19, 2017**

Vijay Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sushil Sheoran, Advocate
for the petitioner.

Mr.P.K.Aggarwal, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Vijay Kumar against respondent State of Haryana, challenging the impugned judgment of conviction dated 15.05.2010 and order of sentence dated 19.05.2010 passed by learned Sub Divisional Judicial Magistrate, Loharu, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹500/- and in default of payment of fine, to undergo simple imprisonment for a period of two months under Sections 452, 325 and 506 IPC each and further to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment, to undergo simple imprisonment for a period of two months under Section 323 IPC and also challenging the judgment dated 17.05.2012 passed by learned Addl. Sessions Judge, Bhiwani, vide which appeal filed by petitioner was dismissed.

The revision was admitted. Learned State counsel appeared

and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.35 dated 25.02.2008. The brief facts of the case as noted down in the judgment passed by learned SDJM, Loharu, are as under:-

“On 24.2.2008 statement of Indrawati recorded by the police to the effect that complainant Indrawati is resident of village Dhani Rahimpur and agriculturist. She has her house in the fields, where she lives with her family members. On 24.2.2008 at 6.00 P.M. she was working in the kitchen, when her brother-in-law's son Vijay Kumar came to her house, giving her abuses. She asked him to stop, then he assaulted her with bricks, which fell on her mouth and on her finger. She called for help, when her husband Mohar Singh came and rescued her. The accused prior to going from the place of occurrence, gave them threatening to kill her in future. The complainant came out of her house and saw some 2-3 persons standing at a distance from them, but she categorically states that she was assaulted by Vijay Kumar only and the bone of contention was that accused was in the habit of coming for nature call in the field of complainant. The complainant then moved to the C.H.C. Loharu where she was given medical aid and her statement recorded by the police. The police on receiving the ruqa from the hospital, had visited the hospital and recorded the statement of the complainant therein. The MLR of the complainant was received by the police, in which three injuries were found on person of Indrawati, which were opined. Later the X-ray reports of complainant was taken by the police, where ring finger left hand was found with a fracture.”

In support of its case, prosecution examined PW-1 Indrawati, PW-2 Mohar Singh, PW-3 Dr.Hemant and PW-4 Dr.Anil Sharma.

Statement of the accused under Section 313 Cr.P.C. was recorded. He denied the correctness of the evidence and pleaded himself as innocent. No witness was examined in defence.

Learned SDJM, Loharu, 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, Bhiwani, vide judgment dated 17.05.2012.

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

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is first offender, only bread earner of the family and he is suffering from the criminal proceedings since 2008. Learned counsel for the petitioner further contended that the petitioner has already undergone 3 months 6 days of actual sentence.

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 and in view of the fact that petitioner is first offender, only bread earner of the family and facing criminal proceedings since 2008 i.e. for the last about 9 years and also in view of the fact that petitioner has already undergone actual sentence of 3 months 6 days including remission, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, sentence of fine and in default thereof shall remain the same. As argued, the fine has already been paid.

Therefore, the present revision petition stands partly allowed.

Since, the revision petitioner is on bail, his bail/surety bonds stand discharged.

January 19, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No