

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR No.915 of 2012 (O&M)  
Date of Decision: 03 October, 2017

Ajay Kumar @ Azad Fauji ...Petitioner

Versus

State of Haryana ...Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Ms. Priyanka Dalal, Advocate (Amicus Curiae)  
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

**FATEH DEEP SINGH, J.**

The petitioner Ajay Kumar @ Azad Fauji along with his co-accused Rampal were tried in case bearing FIR No.129 dated 19.4.2010 under Sections 323,324,326,506 read with Section 34 IPC pertaining to Police Station, Ganaur and through judgment, order of sentence dated 15.12.2010/16.12.2010 was held guilty for commission of offence under Sections 323,324,326,506 IPC and was sentenced as follows:-

|                       |                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Under Section 323 IPC | Rigorous imprisonment for 06 months.                                                                                                 |
| Under Section 324 IPC | Rigorous imprisonment for 01 year and to pay fine of Rs.500/- and in default thereof to under rigorous imprisonment for one month.   |
| Under Section 326 IPC | Rigorous imprisonment for 02 years and to pay fine of Rs.1000/- and in default thereof to under rigorous imprisonment for one month. |
| Under Section 506 IPC | Rigorous imprisonment for 06 months.                                                                                                 |

Against the same, an appeal filed by the appellant/petitioner stood dismissed vide judgment dated 05.10.2011 of the

Court of learned Additional Sessions Judge, Sonapat upholding his conviction and that is how the present criminal revision has been brought about.

Heard learned counsel for the parties and perused the records of the case. The brief allegations are that on 18.4.2010, a medical ruqa along with MLR of one Sunita was received in the Police Station, Ganaur and after the injured was found fit to make statement her statement Ex.PW5/A was got recorded in which she levelled allegations that she was married having two children and was residing with the family of her brother-in-law Ram Kishan and on that day at around 2.15 p.m. when she was present in her house, Rampal came in front of her house and started abusing her and when she came out Rampal gave a kick at the door and, thereafter, dragged her out and at that time accused Rampal armed with knife gave blow of the same on her face, neck, left hand arm and leg as well as at the right side of abdomen. On her raising *raula*, accused fled away from the spot.

Upon completion of investigations, challan was presented in the Court and the prosecution examined Constable Megh Raj as PW1, Dr. G.P. Aggarwal as PW2, Kaptan son of Bhagirath as PW3. ASI Naresh as PW4, complainant Sunita herself examined as PW5, Mukesh as PW6, Constable Sultan Singh as PW7, Inspector Mukesh Kumar as PW8 and HC Rajesh and PW9 and, thereafter, closed his evidence. The incriminating oral as well as documentary evidence was put to the accused in their stand under Section 313 Cr.P.C who denied the same but did not lead any evidence leading to judgment of conviction.

Heard. The medical evidence enlists five injuries; an incised wound over right side of cheek, muscle deep; incised wound over the front of neck, muscle deep; incised wound over back of left upper arm, muscle deep; incised wound over front of right leg bone deep and an incised wound over left side of chest muscle deep and out of which injury Nos.1,4 and 5 were subject to x-ray examination. The contention raised by learned counsel for the petitioner that none of the injury has been covered under the definition of Section 326 IPC has sought to be controverted by learned State counsel on the ground that it tantamounts to disfigurement.

Going through these submissions the definition assigned to grievous hurt in Section 320 IPC is reproduced as under to lay emphasis:-

**“Grievous hurt.**-The following kinds of hurt only are designated as “grievous”:-

(First)— Emasculation.

(Secondly)—Permanent privation of the sight of either eye.

(Thirdly)— Permanent privation of the hearing of either ear,

(Fourthly)—Privation of any member or joint.

(Fifthly)— Destruction or permanent impairing of the powers of any member or joint.

(Sixthly)— Permanent disfiguration of the head or face.

(Seventhly)—Fracture or dislocation of a bone or tooth.

(Eighthly)—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.”

The case of the present petitioner shows disfigurement of facial region and stands adequately covered under the head 'sixthly' which refers to permanent disfiguration of head or face. Learned counsel for the petitioner could not in any manner counter this aspect of the matter when the injuries as well as eye-witness account are fully corroborated by

medical evidence leaves no scope to doubt the nature of these injuries and, thus, the findings and conclusion drawn by the Court below on this aspect needs to be upheld.

The second and the only other point that there is no proven motive or malice on the part of the accused to have assaulted the injured. It is beyond any shadow of doubt proved by ocular version that both the accused had come armed with knife, abused the complainant and in the process had threatened her by giving abuses and thereafter dragged her out of her house and then caused her injuries are elaborative of the fact as to the sharing of mind by the two accused Rampal and Ajay Kumar @ Azad Fauji. The number of injuries numbering six given on various parts of the body and which are too medically proved to be incised wounds could be easily caused by knife which is the ocular version of the witnesses and the repeated blows given to the victim are in itself elaborative of what was at the back of the mind of accused. Thus, this conduct is in itself strongly suggestive proving that perturbed over living at the house of Ram Kishan, elder brother of her husband was the spark which has ignited this occurrence and, therefore, even that aspect has been well brought on the record by the victim herself. The two Courts below have very well appreciated the medical evidence and eye-witness account and has come to a justifiable conclusion and the same could not be displaced by the learned counsel for the petitioner.

As a last resort, learned counsel for the petitioner has prayed for taking a lenient view as the petitioner has already undergone sufficient incarceration and has been suffering turmoil of this trial since

2010 and the same has been opposed by learned State counsel. Going through the same, the accused after planning in a cool and calculated manner duly armed with knife had come to the residence of the victim and after abusing her and dragging her out of the house caused her injuries and which injuries spread from the face till the legs are suggestive of the criminal intendment and ferociousness with which the victim has been attacked by the accused side. Mere on the suspicion accused had attacked a helpless woman and caused her multiple injuries shows the scant regards accused had for the law of the land.

Thus, in the light of gravity of offence, numbers of injuries, weapon used and that too the occurrence having been occurred during day time in residential locality impels this Court to take stricter view and to hold that petitioner is not entitled to any concession. There is no perversity and illegality in the order passed by the two Courts below. The revision petition being hopelessly without any merits stands dismissed.

**(FATEH DEEP SINGH)**  
**JUDGE**

**October 03, 2017**

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Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No