

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

CRR No.1903 of 2013 (O&M)
Date of Decision: November 13, 2017

Gurdarshan Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Surinder Garg, Advocate
for the petitioner.

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

Mr.K.B.Raheja, Advocate
for respondents No.2 to 5.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurdarshan Singh against State of Punjab and other respondents challenging the judgment dated 27.02.2013 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib, vide which the appeal filed by the accused-respondents against the judgment of conviction and order of sentence dated 17.11.2010 passed by learned Judicial Magistrate Ist Class, Gidderbaha, was disposed of and accused-respondents were released on probation on their furnishing probation bonds in the sum of ₹50,000/- each with one surety in the like amount.

Notice of motion was issued. Learned State counsel as well as

learned counsel for respondents No.2 to 5 appeared and contested the petition.

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

From the record, I find that the challan was presented against the accused-respondents in case FIR No.195 dated 10.09.2005 under Sections 325, 323 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Gidderbaha, are as under:-

“In brief the case of the prosecution is that the instant case was registered on the statement of Gurdarshan Singh son of Gurjant Singh, Jat Sikh, resident of village Chughe Khurd, Police Station Sadar Bathinda, who got recorded therein that he is resident of above said address and is an agriculturist by profession. His aunt (bua) Kuldeep Singh for the last 24/25 years and he oftenly used to come to see her aunt (Bhua) at village Mallan had been staying there for many days. Complainant further stated that about two/three days ago he came to village Mallan and today i.e. on 31.08.2005 after seeing his aunt (Bhua) and uncle (Phuphar) he was standing at bus stand of village Mallan for going to his village Chughe Khurd, where Kaura Singh son of Bhola Singh, Mander Singh son of Bhola Singh, Charanjit Singh@ Raksh son of Pritam Singh armed with handle Iof spade, Manjit Singh son of Daddu Singh, Kajbi Sikh, residents of Mallan, were also standing there who were laughing on him then they (accused) said that he (complainant) is very handsome and they are noting his address and are bring a pen. Then Charanjit Singh alias Rash said to caught hold him and teach him a lesson for asking them for their laughing. In the meantime, accused Kaur Singh gave fist blow in the right side of his stomach and Mander Singh gave a brick bat blow after picking up the same from the earth which hit in his head and Charanjit Singh alias Raksh gave blow of handle of spade towards his head which hit on the right side of his head above the ear and Manjit Singh slap on the left side of his head on the ear and he (complainant) raised rouna Marta Marta and this occurrence was witnessed by Sohan Singh son of Modan Singh, Jat R/o Village Mallan, who also raised rouna Na Maro and on hearing their rouna people from the village gathered there and out of them suddenly his Phuphar Bohar Singh also came who asked the accused, the reason for beating the complainant, then accused attached upon him and caused injuries on the mouth and other parts of his body and then the people of the village intercepted and

saved them from the accused with great difficulty. If the people of the village have not saved them then they (accused) might have caused more injuries. Thereafter, accused ran away from the spot with their respective weapons. Complainant further stated that the motive behind the occurrence was asking by the complainant from the accused reason for their laughing on the complainant. On the basis of said statement and doctor/medical result as the commission of offence under Section 323/34 IPC was prima facie found to have been made out so Rapat No.30 dated 31.08.2005 was entered in the Rapat No.30 dated 31.08.2005 was entered in the Rapat Roznamcha. On receipt of x-ray report as injury No.4 on the person of Gurdarshan Singh was declared grievous in nature so on the basis of Rapat No.30 dated 31.08.2005 above said case under Section 325/323/34 IPC was registered against the accused at P.S.Kotbhai. The preliminary investigation of the case was conducted by ASI Makhan Singh. The place of occurrence was visited. Rough site plan was prepared. Statements of the witnesses were recorded. Accused were arrested and weapons of offence were recovered from them. As the offences were bailable so the accused were released on bail at the spot. On completion of all other necessary formalities of investigation the instant challan was prepared and presented in the Court.”

The prosecution examined PW-1 Dr.Pawan Kumar Mangla, Medical Officer, PW-2 Gurdarshan Singh, complainant-injured, PW-3 Bohar Singh, injured-eye witness, PW-4 Dr.Bandna, PW-5 ASI Makhan Singh and PW-6 Head Constable Sham Sunder.

The accused were examined under Section 313 Cr.P.C. and they denied the incriminating evidence against them and pleaded their innocence and false implication.

Learned JMIC, Gidderbaha, on the basis of the evidence, convicted accused Manjit Singh under Section 325 IPC and accused Charanjit Singh, Mander Singh and Kaura Singh under Section 325/34 IPC and sentenced them to undergo rigorous imprisonment for a period of 2½ years and to pay fine of ₹500/- and in default of payment of fine, to undergo simple imprisonment for a period of seven days each. An appeal was filed

by the accused-respondents before Court of Session and learned Addl. Sessions Judge, Sri Muktsar Sahib, vide impugned judgment dated 27.02.2013 disposed of the appeal and released the accused-respondents on probation, as stated above.

Aggrieved from the above-said impugned judgment dated 27.02.2013, present revision has been filed by the petitioner-complainant.

From the perusal of the impugned judgment dated 27.02.2013, I find that learned Addl. Sessions Judge, Sri Muktsar Sahib while releasing the accused-respondents on probation held that there is no previous history of enmity between the parties. The occurrence is the outcome of a sudden flare up. The accused are first offenders. Learned lower Appellate Court further found that occurrence is dated 31.08.2005 and charge against the accused was framed on 09.12.2005. On the date of framing of the charge, accused Manjit Singh and Mander Singh were aged about 19 years, accused Charanjit Singh @ Ramesh was aged about 31 years and accused Kaura Singh was aged about 23 years. They have suffered protracted trial for the last more than seven years and have not misused the concession of bail.

It is further held by learned Addl. Sessions Judge, Sri Muktsar Sahib that nature of offence, nature of injury No.4, which was later on declared as grievous in nature, was caused by slap on the ear of the complainant and accused are not previous convicts and held that accused are entitled to be released on probation.

The perusal of the impugned judgment further shows that even ₹5000/- was imposed as compensation on each accused, which was to be paid to the complainant-injured Gurdarshan Singh. From the perusal of the

that these have been given as per law. The convicts are first offenders and were of young age at the time of occurrence and further grievous injury under Section 325 IPC is the result of slap on the ear of the complainant-injured and not with any deadly weapon.

In view of the above discussion, I find that the impugned judgment 27.02.2013 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib, is correct, as per law and evidence and does not require any interference from this Court.

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

November 13, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No