

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

CRR No. 1398 of 2015 (O&M)
Date of Decision: 11.10.2017

RANBIR**...Petitioner****VS.****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. R.S. Hooda, Advocate,
for the petitioner.

Mr. R.K. Makkad, DAG, Haryana.

KULDIP SINGH, J. (ORAL)

The present revision has been filed against the judgment dated 21.03.2015 passed by the learned Additional Sessions Judge, Rohtak whereby while upholding the conviction of the present petitioner under Section 323 of the Indian Penal Code, the sentence was modified and he was released on probation. The learned Judicial Magistrate Ist Class, Rohtak vide judgment of conviction dated 16.01.2014 and order of sentence dated 17.01.2014 had convicted the petitioner under Section 323 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for six months and to pay a fine of ₹ 1,000/- and in default thereof to undergo another imprisonment for ten days.

The facts of this case are that Savinder Singh, his mother Santosh Devi (both injured) and Ranbir, accused-petitioner, were living in the same street. On 11.03.2007, Ranbir, accused-petitioner was allegedly constructing a speed breaker in front of his house. When Savinder Singh tried to stop him from constructing the speed breaker, Ranbir, accused-petitioner abused and gave a fist blow on his left shoulder and gave a blow with karni (an instrument

used by the masons for leveling the cement plaster) on the thumb of the right hand of Savinder Singh. When Santosh Devi came and intervene, she was also given a blow on the right hand and kick blow on her left knee.

The accused-petitioner was initially charge-sheeted under Section 323 read with Section 325 of the Indian Penal Code. After the trial, the learned Judicial Magistrate Ist Class, Rohtak has held that the offence under Section 325 of Indian Penal Code has not been proved and consequently accused-petitioner was convicted and sentenced under Section 323 of the Indian Penal Code.

I have heard learned counsel for both the parties and have carefully gone through the case file of the present revision.

Learned counsel for the petitioner has argued that the petitioner is innocent and even though he was released on probation, the conviction in a criminal case stands in the way of his clean record as the petitioner is an ex-servicemen and he has got clean record so far.

I have perused the lower Court file and it comes out that unluckily both the Courts below have neither described the injuries caused upon both the injured nor discussed its effect. However, it is necessary to reproduce the injuries on the persons of both the injured Savinder Singh and Santosh Devi.

Injuries of Savinder Singh:

“Complaining of pain in left shoulder O/E no external mark of injury present. Advised ortho surgeon opinion.

A linear abrasion reddish of size 2.5 X 0.1 cm present over palmer aspect of right hand on thenar eminence 2cm below the metacarpophalangeal joint of thumb. Advised ortho surgeon opinion”

Injuries of Santosh Devi:-

“Complaining of pain in left knee O/E no external mark of injury present. Advised ortho surgeon opinion.

A reddish abrasion of size ½ X 0.1 cm present 1cm lateral to medical end of right wrist joint. Advised ortho surgeon opinion”

The injuries were caused with a blunt weapon. The perusal of the injuries shows that there was only complain of pain without any external mark of injury on the shoulder and knee of both the injured, Savinder Singh and Santosh Devi respectively. Therefore, it does not corroborate the statements of both the injured that fist blows were given on the shoulder and kick blows on the knee. The next injury is only reddish abrasion of small dimension i.e. of 2.5 X 0.1 cm over the common aspect of the right hand qua Savinder Singh and ½ cm X 0.1 cm at the end of the wrist joint. The injuries are so minor that it could be the result of fall. If a blow with such Karni is given, the dimension of the injury is likely to be much bigger.

In the cross-examination, the doctor has stated that she is unable to tell as to whether the injuries could be self inflicted or not? Both the parties are neighbors. It also comes out from the statement of ASI Ram Niwas that when he prepared the site plan, the speed breaker was not shown. As per the statement of Santosh Devi a speed breaker was constructed by the accused-petitioner Ranbir. The fact that when the site plan was prepared, though at the later stage, such speed breaker or its traces of its being there, were not found, goes to show that genesis of the occurrence has been kept away from the Court. It is possible that there is merely some altercation or

minor scuffle which has been given the shape of the present occurrence. In these circumstances, this Court has entertained the doubts whether the occurrence as alleged ever took place?.

Keeping in view the entirety of the facts and circumstances, the petitioner is granted the benefit of doubt and acquitted of the charges framed against him under Section 323 of Indian Penal Code and judgments of both the Courts below are hereby set aside.

The probation bonds already furnished stands discharged.

October 11, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	Yes / ✓ No