

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

(i)

CRR No.1621 of 2015 (O&M)

Baljit Kaur

...Petitioner

VERSUS

State of Punjab and others

...Respondents

(ii)

CRR No.1622 of 2015 (O&M)

Baljit Kaur

...Petitioner

VERSUS

State of Punjab and another

...Respondents

(iii)

CRR No.1623 of 2015 (O&M)

Baljit Kaur

...Petitioner

VERSUS

State of Punjab and others

...Respondents

(iv)

CRR No.2715 of 2015 (O&M)

Pargat Singh and others

...Petitioners

VERSUS

State of Punjab

...Respondent

Date of Decision: November 16, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bhrigu Dutt Sharma, Advocate

for the petitioner (in CRRs No.1621, 1622 and 1623 of 2015).

Mr.R.S.Bajaj, Advocate
for the petitioners (in CRR No.2715 of 2015).

INDERJIT SINGH, J.

This order shall dispose of above-mentioned four connected revisions as the point for determination in all the cases is the same.

CRRs No.1621, 1622 and 1623 of 2015 have been filed by petitioner-complainant Baljit Kaur under Section 401 Cr.P.C. against the respondents, challenging the judgment dated 05.02.2015 passed by learned Addl. Sessions Judge, Jalandhar, vide which the appeal filed by the petitioner for enhancement of the sentence of accused-respondents was dismissed

CRR No.2715 of 2015 has been filed by petitioners-accused challenging the judgment of conviction and order of sentence dated 07.03.2013 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the petitioners were convicted under Sections 326 and 323 IPC read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a maximum period of three years along with fine under Section 326 IPC read with Section 34 IPC and also challenging the judgment dated 05.02.2013 passed by learned Addl. Sessions Judge, Jalandhar, vide which the appeals filed by the petitioners were dismissed, however, their conviction was modified and they were convicted under Section 324 IPC instead of Section 326 IPC and conviction under Section 323 IPC read with Section 34 IPC was upheld and the petitioners were released on probation for the period of

on the prescribed form and they were also directed to pay compensation of ₹5000/- each to the complainant-injured Baljit Kaur.

From the record, I find that challan was presented against accused-petitioners Pargat Singh, Kamaljit Kaur, Manpreet Kaur alias Vicky and Guriqbal Singh alias Lucky in case FIR No.105 dated 28.09.2006 under Sections 324, 323, 326, 452 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Jalandhar, are as under:-

“2. Stating briefly the facts of the case of the prosecution are that on 27.09.2006 one MLR No. JSJ 2/06 regarding injured Baljit Kaur was received by SI Dilbagh Singh. On that day the police proceeded to the hospital Kala Bakra, where the Doctor declared the injured unfit for making the statement. Again on 28.09.2006 SI Dilbagh Singh alongwith other police officials went to the said hospital and sought the opinion of the Doctor regarding the fitness of injured and the Doctor declared her fit for making the statement. Then the injured Baljit Kaur got recorded her statement, whereby she stated that on 26.09.2006 at about 8:00 AM she was grooming in her house. In the mean time Kamaljit Kaur wife of Pargat Singh and her daughter Vicky resident of Dalli dragged her out side her house, Guriqbal Singh alias Lucky who is son in law of Kamaljit Kaur was standing there having sword in his hand, he gave the sword blow on her, which hit on her right arm. Pargat Singh was also standing there holding handle of pump in his hand, who gave the blow of handle on her neck. Then Kamaljit Kaur thrown a stone on complainant, which hit on her chest. Then complainant started crying and in the mean time Didar Singh son of Takhat Singh came there and rescued the complainant from the clutches of accused persons. Thereafter Manjit Singh alias Lalli son of Kamal Balbir Singh brought her to Civil Hospital Kala Bakra and got her admitted there. In the end prayer for taking action against the accused persons was made. Thereafter investigation was carried on by the police. Accused were arrested. Site plan of place of occurrence was prepared and statement of witnesses were recorded under Section 161 Code of Criminal Procedure. Finally after the completion of investigation, challan under Section 173 of Code of Criminal Procedure presented before the court.”

Learned JMIC, Jalandhar convicted and sentenced accused-

07.03.2013 as stated above. Appeals were filed by accused-petitioner against their conviction and an appeal was also filed by complainant for enhancement of the sentence imposed upon the accused and learned Addl. Sessions Judge, Jalandhar, dismissed all the appeals vide judgment dated 05.02.2015 with the modification of the conviction of the accused-petitioners and released them on probation, as stated above.

Aggrieved from the above-said judgments and orders of sentence, present revision petitions have been filed by the petitioner-complainant and also by petitioners-accused.

I have learned counsel for the petitioners and have gone through the record.

First of all, it is admitted at the time of arguments that no X-ray films have been produced on the record. Learned Addl. Sessions Judge, relied upon upon the judgment **2007(2) Apex Court Judgments 337 [SC]**, wherein, it is held that court deprived of an opportunity from considering a part of medical evidence, adverse inference rightly drawn by trial judge. He further relied upon the judgment passed by this Court in **2009(2) RCR (Criminal) 753**, in which accused were charged under Sections 324 and 326 Indian Penal Code and accused were convicted under sections 324 but acquitted under section 326 IPC on the ground that fracture was not proved by producing X-ray film which was the best evidence.

As the X-ray films have not been proved, therefore, X-ray reports cannot prove fracture. X-ray report is always based on X-ray film but X-ray films have not been produced and opportunity to examine the witness by the accused has been denied. Therefore, learned Addl. Sessions

and convicted them under Section 324 IPC.

I have gone through the record. At the time of arguments, nothing has been argued as to which material evidence has been misread and which evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by learned Addl. Sessions Judge, Jalandhar are perverse or against the evidence and law. No material discrepancies or contradictions have been pointed out. At the time of arguments, no material improvements have been pointed out in the statements of the PWs. The perusal of the record shows that statements of the witnesses can be relied upon. There is nothing in the statements of the PWs which may make their statements unreliable. In the revision, this Court is not re-appreciate the evidence like Court of an appeal.

In view of the above discussion, I find that no illegality has been committed by learned Addl. Sessions Judge, Jalandhar, while passing the impugned judgment dated 05.02.2015.

Further, on the sentence, I find that firstly, the injuries on the person of complainant are simple. Secondly, I find that accused Kamaljit Kaur is 65 years of age and Pargat Singh is of 70 years and the FIR was registered in the year 2006 and accused are suffering from long protracted criminal trial. The accused are first offenders. Further, accused Guriqbal Singh and Manpreet Kaur are husband and wife and they have two small children to look after. In view of the above facts, I find that learned Addl. Sessions Judge, Jalandhar, has rightly released the accused on probation and no illegality has been committed. No ground is made out for enhancing the sentence of the accused.

Therefore, finding no merit in all the revision petitions, the

same are dismissed.

November 16, 2017
Vgulati

Whether speaking/reasoned
Whether reportable

(INDERJIT SINGH)
JUDGE

Yes
No