

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

(i)

CRR No.2645 of 2015 (O&M)

Mandeep Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii)

CRR No.3353 of 2015 (O&M)

Joginder Pal

...Petitioner

VERSUS

Ajit Singh and others

...Respondents

(iii)

CRR No.3663 of 2015 (O&M)

Joginder Pal

...Petitioner

VERSUS

Ajit Singh and others

...Respondents

Date of Decision: November 27, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.S.Swaich, Advocate
for the petitioner (in CRR No.2645 of 2015) and
for respondent No.2 (in CRRs No.3353 and 3663 of 2015).

Mr.A.K.Kalsy, Advocate
for the petitioner (in CRRs No.3353 and 3663 of 2015).

Mr.Jaswinder Singh, Advocate
for respondent No.1 (in CRRs No.3353 and 3663 of 2015).

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

INDERJIT SINGH, J.

CRM No.29437 of 2015 in CRR No.3353 of 2015

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 53 days in filing the revision petition, is condoned.

CRM No.32101 of 2015 in CRR No.3663 of 2015

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 67 days in filing the revision petition, is condoned.

Main cases

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

CRR No.2645 of 2015 has been filed by petitioner-accused Mandeep Singh challenging the judgment of conviction and order of sentence dated 31.01.2013 passed by learned Judicial Magistrate Ist Class, Khanna, vide which the petitioner along with co-accused was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of seven days under Section 323 read with Section 34 IPC and further to undergo simple imprisonment for a period of one month and to pay fine of ₹500/- and in default of payment of fine, to undergo simple imprisonment for a period of seven days under Section 341 read with Section 34 IPC each and also challenging the judgment dated 13.04.2015 passed by learned Addl. Sessions Judge, Ludhiana, vide which the appeal filed by the petitioner along with co-accused was partly allowed

and they were acquitted of the charge under Section 341 IPC. However, their conviction under Section 323 read with Section 34 IPC was upheld but their sentence was modified and they were ordered to be released on probation for the period of one year on their furnishing probation bonds in the sum of ₹50,000/- with one surety each in the like amount.

CRRs No.3353 and 3663 of 2015 have been filed by petitioner-complainant Joginder Pal under Section 401 Cr.P.C. against the respondents, challenging the judgment of conviction and order of sentence dated 31.01.2013 passed by learned Judicial Magistrate Ist Class, Khanna, vide which the accused were only convicted and sentenced under Sections 341 and 323 read with Section 34 IPC and acquitted under Sections 353 and 506 IPC and judgment dated 13.04.2015 passed by learned Addl. Sessions Judge, Ludhiana, vide which the appeal filed by the petitioner for enhancement of the sentence of accused-respondents was dismissed.

From the record, I find that challan was presented against petitioner Mandeep Singh and co-accused Ajit Singh in case FIR No.35 dated 21.02.2004 under Sections 353, 341, 323, 506 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned JMJC, Khanna, are as under:-

“On 20.02.2004, MLR No.GP/6/04 pertaining to Joginderpal was received on which ASI Balvir Singh went to civil hospital to record the statement of Joginderpal. Doctor declared him fit to give the statemet. On 21.02.2004 ,ASI Baljinder Singh recorded the statement of Joginderpal. He deposed that he is a Hindi teacher in Government Middle School, Model Town, Samrala Road, Khanna. On 20.02.2004, at about 1:30 p.m., he went to Government Girls Senior Secondary School to take pay roll. Then he met Principal Varsha Shukla after taking the register from cleark Amritpal. When he was about to start his moped, he met Dutt, Senior Lecturer of School and had some conversation with him. Then he started the moped and when he

reached near the gate of school. Ajit Singh-Punjab Teacher and Mandeep Singh who is unemployed were standing at the inner side of the gate. They stopped his moped and had thrown him on the ground and started beating him without any reason and they were saying that today a big leader has come in their hands and they will kill him. They kept on beating him. When he tried to get up, they both threw him on the wires which were meant for fencing the parking. Then they gave fist blows on his nose, eyes and forehead. He became unconscious and blood started oozing out of his nose and they hit him on his head with some weapon. They gave kicks on his back. He raised raula and then both the accused got him admitted in Civil Hospital, Khanna. On seeing his position serious, doctors in Civil Hospital, Khanna referred him to DMC, Ludhiana.”

Learned JMIC, Khanna convicted and sentenced accused-petitioner along with co-accused vide judgment of conviction and order of sentence dated 31.01.2013 as stated above. Appeal was filed by accused-petitioner along with co-accused 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, Ludhiana, dismissed the appeal filed by complainant and partly accepted the appeal filed by the accused vide judgment dated 13.04.2015 with the modification of the conviction and sentence of the accused-petitioner and co-accused and released them on probation, as stated above.

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

Notice of motion was issued in all the cases. Learned counsel for the respective parties as well as learned State counsel appeared and contested the petitions.

I have learned counsel for the parties as well as learned State

counsel and have gone through the record.

At the time of arguments, learned counsel for petitioner Mandeep Singh argued only on one point that Mandeep Singh has been falsely implicated in this case.

From the record, I find that both the Courts below have given concurrent findings regarding the guilt of the accused. In the present case, the complainant Joginder Pal has deposed consistently regarding the prosecution version. He is also injured witness. PW-2 Ramesh Chander Dutt has also deposed that the accused have given injuries to Joginder Pal and he witnessed the occurrence and he took Joginder Pal to Civil Hospital for treatment. No material contradictions in their statements have been pointed nor any material improvement has been pointed at the time of arguments. Nothing has been shown as to why these witnesses are deposing falsely. The oral statements of these PWs are duly supported by medical evidence proved by PW-4 Dr.Gurpreet Singh. The injuries are simple and stated to be given by kick and fist blows. There is nothing on the record to show as to why these PWs are not to be believed. The PWs are reliable witnesses and in no way, it can be held that the accused have been falsely implicated in this case.

This is a revision petition and in the revision petition, this Court is not re-appreciate the evidence like Court of an appeal. At the time of arguments, nothing has been pointed out by learned counsel for the petitioner Mandeep Singh as to how the findings given by the Courts below are perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below.

The perusal of the judgment passed by the Courts below shows

that the findings have been given as per evidence and law and after appreciating the evidence in right perspective. The judgments conviction passed by the Courts below are correct, as per law and do not require any interference from this Court.

As regarding the revision petitions filed by the complainant for enhancing the sentence, I find that, first of all, the accused have been convicted under Section 323 IPC and injuries were given by kick and fist blows and four injuries are complaint of pain. Moreover, the accused are first offenders and they are suffering from long criminal protracted proceedings since 2004. In view of above facts, I find that no illegality has been committed by learned Addl. Sessions Judge, Ludhiana, while releasing them on probation. Further, the probation period has already been completed by the accused.

Therefore, finding no merit in all the revision petitions, the same are dismissed.

November 27, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No