

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

**CRR No. 3145 of 2016**

**DATE OF DECISION :- September 18, 2017**

**Isham Singh**

**...Petitioner**

**Versus**

**Balwinder Singh and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE H.S. MADAN**

**Present:-** Mr. Rakesh Dev Gupta, Advocate for the petitioner.

Mr. Aman Pal, Advocate for respondents no. 1 and 2.

Mr. Gaurav Bansal, AAG, Haryana.

**\*\*\***

Balwinder Singh and Rishi Pal being accused in F.I.R. No. 46 dated 9.3.2010 for offences under Sections 323, 325/34 and 506 IPC registered at Police Station Pundri were tried by Judicial Magistrate Ist Class, Kaithal and vide judgment dated 02.12.2014, they were convicted for such offences and vide order dated 3.12.2014 they were sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹500/- each for offence under Section 323 read with Section 34 IPC and in default of payment of fine, to undergo simple imprisonment for a period of one month and as regards offence under Section 325 read

with Section 34 IPC they were sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹1000/- each and in default of payment of fine to undergo further simple imprisonment for a period of one month and for offence under Section 506 IPC they were sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹500/- each and in default of payment of fine to undergo simple imprisonment for a period of one month. All the sentences were ordered to run concurrently.

Briefly stated the prosecution story is that on 5.3.2010 at about 4.30 P.M., when complainant Isham Singh, an agriculturist, was present in his agricultural land at village Buchi, his son Gulab and cousin brother Mahender were in fields of Mahender. In the meanwhile, Rishi Pal son of Ram Dia and Balwinder Singh son of Dharam Singh residents of that very village came from their agricultural land, armed with dandas came there stating that they would teach a lesson to the complainant for abusing them six months earlier. Rishi Pal gave danda blow hitting the complainant near right thumb, Balinder Singh gave a danda blow hitting complainant on right arm. Nephew of Rishi Pal along with two others also arrived at the spot proclaiming that they would teach lesson to the complainant for quarreling. They also gave danda blows to the complainant hitting him on back, foot and leg. Resultantly, complainant fell down and raised alarm. When challenged the assailants then they ran away from the spot with with their dandas threatening the complainant with death in future. Injured was moved to the hospital where he was

given medical treatment and from there he was referred to Civil Hospital, Kaithal for X-Ray examination. On the basis of statement of injured-complainant formal F.I.R was registered. Case was got investigated and accused were arrested. After completion of investigation they were challaned.

They were charge sheeted under Sections 323/325/34 and 506 IPC. Accused Rinku alias Surjit had expired during the trial. As such proceedings against him were dropped. Accused Ankit Kumar was declared juvenile and case against him was forwarded to Juvenile Justice Board, Kaithal. The prosecution led evidence. Thereafter statements of accused were recorded under Section 313 Cr.P.C.. The accused led evidence in defence. The trial Court convicted the accused Balwinder Singh and Rishipal under Sections 323/325/506 read with Section 34 IPC and they filed the appeal which was disposed of by learned Sessions Judge, Kaithal vide judgment dated 28.7.2016, in terms of that the conviction of the accused by the trial Court was upheld, however, regarding the sentence part, the judgment was modified and the accused appellants were ordered to be released on probation under Section 4 of the Probation of Offenders Act, 1958 read with Section 360 Cr.P.C. on their entering into bonds in a sum of ₹20,000/- with one surety in the like amount each to the satisfaction of learned trial Magistrate for a period of one year. It was directed that during such period, the accused-appellants shall keep peace and be of good behaviour and they would appear as and when called upon by the Court to do so during the period of one year.

They were also directed to pay ₹5000/- each to injured-complainant i.e. total amount of ₹10,000/-. The amount of fine deposited in the trial Court was ordered to be converted into cost of proceedings. The Court of Sessions while disposing of the appeal observed that if the appellants-accused failed to pay the compensation amount and furnish requisite bonds within 15 days from the order they would undergo sentence as ordered by the trial Magistrate. It is stated that the amount of compensation has since been deposited in the trial Court itself.

Feeling aggrieved by such judgment passed by the Court of Sessions, the complainant has filed the present Revision Petition contending that the accused-convicts who have been ordered to be released on probation be ordered to undergo the sentence as directed by the trial Magistrate, keeping in view of the facts and circumstances of the case. Notice of that petition was given to the respondents, accused-convicts as well as state who have put in appearance.

I have heard learned counsel for the petitioner, learned counsel for the respondent-accused-convicts as well as learned State counsel.

I find that keeping in view the facts and circumstances of the case, more particularly in the light of the fact that fortunately the grievous injury caused on person of complainant happened to be on right hand, which is a non vital part of the body and further considering the previous antecedents of the accused-convicts, inasmuch as no previous conviction is alleged and proved against them, the Appellate Court was justified in

granting concession of probation to them. However, I find that the compensation granted i.e. ₹5000/- each payable by accused-convicts is some what on lower side and it deserves to be enhanced. Therefore, the compensation granted is enhanced to ₹12,500/- each making it total of ₹25,000/- payable by both the accused-convicts. This enhanced amount would be deposited in the Court of trial Magistrate within a period of 15 days from today and then intimation in that regard be given to the complainant-injured so that he can move that Court and withdraw the amount of compensation. With such observations, the Revision Petition stands disposed of.

**(H.S. MADAAN)  
JUDGE**

**September 18, 2017**  
*p.singh*

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No