

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR 1776-2017 (O&M)
Date of decision: 07.09.2017

Naib SinghPetitioner
versus
State of PunjabRespondent

CORAM: Hon’ble Mr.Justice Kuldeep Singh

Present: Mr.P.S.Sekhon, Advocate for the petitioner
Mr.C.L.Pawar, Senior Deputy Advocate General, Punjab

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
- 2. To be referred to the Reporters or not ?
- 3. Whether the judgment should be reported in the Digest?

Kuldeep Singh, J. (Oral)

Impugned in the present revision is the judgment dated 17.3.2017 passed by learned Additional Sessions Judge, Sangrur affirming that of Sub Divisional Judicial Magistrate, Moonak dated 3.11.2016, vide which the petitioner was convicted under Section 452 IPC and 323 IPC and sentenced as under:-

Under Section 452 IPC	To undergo Rigorous Imprisonment for one year and to pay fine of Rs.500/- and in default of payment of fine to further undergo Rigorous Imprisonment for 2 months
Under Section 323 IPC	To undergo Rigorous Imprisonment for 6 months and to pay compensation of Rs.5000/- each to injured Jarnail Singh, Jasvir Kaur and Harjinder Kaur and in default to further undergo Rigorous Imprisonment for 2 months

Both the sentences were directed to run concurrently.
Heard.

Custody certificate dated 7.9.2017 filed in Court today and the same is taken on record.

Allegations against the petitioner are that on 2.1.2013 at 4.00 p.m., he armed with a Gandasa entered the house of Jarnail Singh (complainant), when he was feeding his cattle and gave a gandasa blow on his head. When his wife Jasvir Kaur intervened, a gandasa blow was given

on her head also. Then the petitioner dragged Jasvir Kaur outside the house at which time his sister-in-law Harjinder Kaur tried to intervene. She was also given a gandasa blow on her head. The doctor found one lacerated wound each on the head of all the three injured. Both the Courts below have believed the statements of the injured and convicted and sentenced the petitioner.

Learned counsel for the petitioner has argued that the fight took place in the street and Section 452 IPC is not attracted. Perusal of the site plan shows that injuries to Jarnail Singh and his wife Jasvir Kaur were caused in their house which clearly attracts Section 452 IPC. There was no suggestion to any of the witnesses that the place where the complainant was feeding his cattle was part of the street. Therefore, the said plea cannot allowed to be raised for the first time before this Court. Since, the injuries are on the head, possibility of same being caused as a result of fall or with friendly hand, in the given circumstances, is ruled out. There is no illegality or infirmity in the findings recorded by both the Courts below. Accordingly, conviction of the petitioner under Section 452 IPC read with Section 323 IPC is upheld.

Learned counsel for the petitioner prays for leniency in the sentence. Considering the facts and circumstances, substantive sentence of RI for one year under Section 452 IPC is reduced to Rigorous Imprisonment for nine months. Remaining part of the sentence is maintained. Sentence under Section 323 IPC is also maintained.

With above noted modification, revision is dismissed.

07.09.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No