

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 2761 of 2017

Date of Decision: 07.11.2017

Jeet Singh and Others
... Petitioner(s)
Versus
State of Haryana
... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. R.S.Mamli, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present revision petition against the judgment of conviction dated 5.5.2014 and order of sentence dated 8.5.2014, passed by the learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, whereby petitioners were held guilty and convicted for the offences punishable under Sections 323, 324, 326 IPC read with Section 34 IPC and 506 IPC and were sentenced as under:-

<i>Sr. No.</i>	<i>Under Section</i>	<i>Sentence Awarded</i>	<i>Sentence in default</i>
1.	323 IPC	To pay a fine of Rs.1,000/- each.	In default of payment of fine, they shall further undergo simple imprisonment for a period of one month each.
2.	324 IPC	To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- each.	In default of payment of fine, they shall further undergo simple imprisonment for a period of one month each.
3.	326 IPC	To undergo rigorous imprisonment for a period	In default of payment of fine, they shall further

		<i>of one year and to pay a fine of Rs.2,000/- each.</i>	<i>undergo simple imprisonment for a period of two months each.</i>
4.	506 IPC	<i>To pay a fine of Rs.1,000/- each.</i>	<i>In default of payment of fine, they shall further undergo simple imprisonment for a period of one month each.</i>

All the sentences were ordered to run concurrently.

Petitioners preferred an appeal against the judgment of conviction and order of sentence and the same was also dismissed vide judgment dated 25.7.2017, passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri.

Facts relevant for the purpose of decision of the present revision petition that on 14.4.2008 at about 6.30 p.m., complainant Mahinder Singh was going to his home and when he reached in front of the gate of his house, Ajit Singh and his son Mukhtyar Singh, who were armed with *gandasies* and Gurlal Singh, who was having danda in his hands, reached there. Ajit Singh gave a *gandasi* blow from its reverse side on the head of complainant. Mukhtyar Singh also gave a *gandasi* blow on his head but the complainant saved himself by raising his right hand and the blow hit on the fingers of his right hand, whereas Gurlal Singh gave danda blows on his body. The complainant raised alarm, which attracted Jai Pal, his wife Balwinder Kaur and daughter-in-law Gurvinder Kaur. They rescued the complainant. Meanwhile, accused persons fled away from the spot by advancing threats to the complainant to kill him at appropriate time. The matter was reported to the police. The injured was medicolegally examined. The accused persons

the Court for trial.

During the course of trial, the learned trial Judge recorded the various proceedings of the trial including framing of charge against the accused, recorded the statements of injured, eye-witnesses, Medical Officer and other police officials apart from examining the accused persons under Section 313 Cr.P.C. After considering the prosecution as well as defence versions, the learned trial Judge held the petitioners guilty and convicted them for commission of offences punishable under Sections 323, 324, 326 IPC read with Section 34 IPC and 506 IPC and sentenced them as above.

The revisionists preferred an appeal before the learned Additional Sessions Judge and the same was also dismissed. As such, the present revision petition.

Learned counsel for the petitioners mainly contended that it was the case of sudden fight and even the Medical Officer, in his cross-examination, has admitted that the injuries could be resulted by friendly hand and there was no intention on the part of the accused persons to commit the crime.

Learned counsel for the petitioners also contended that there is an inordinate delay of three days in reporting the matter to the police as the alleged occurrence took place on 14.4.2008 and FIR was registered on 16.4.2008.

Present being a revision petition and lower Courts' record being available with this Court, no notice of motion has been issued.

Learned counsel for the State contended that present petition is absolutely without any merit because the prosecution case has been duly

proved on the file as per statement of injured, which is duly supported by medical evidence. There was absolutely no motive with the complainant to falsely implicate the accused persons in the present case and allowing the main accused to go scot free. There is no dispute about identity of the accused persons. Both the Courts below have already taken the most lenient view on the point of sentence. So, the present revision petition be dismissed.

Having considered the submissions made by learned counsel for the parties and perusal of the record, this Court is of the considered view that the prosecution case is based on the statement of injured/complainant Mahinder Singh.

As regard to the delay in reporting the matter to the police, both the Courts below have dealt with the matter as per law that there is no delay in reporting the matter to the police as complainant/injured was found to be unfit to make the statement as per medical opinion and on 16.4.2008, the complainant was reported to be fit to make statement and on his statement FIR was recorded promptly. More so, delay in itself is not fatal for the prosecution case. In this case, delay has satisfactorily been explained and there is nothing to disbelieve the prosecution case and defence version is just a plea of denial which has been rightly discarded by both the Courts below. As such, both the Courts below have already scrutinized the entire evidence and there is no illegality in the judgment of conviction, recorded by the learned trial Judge and the same having been affirmed by the learned first Appellate Court.

As regard to the order of sentence, the learned trial Judge has already taken a most lenient view. Learned counsel for the petitioners

contended that petitioners are not previous convicts, so the benefit of probation under the Probation of Offenders Act, 1958 be extended to the petitioners. However, taking into consideration the facts in its entirety that accused persons were armed with deadly weapons like *gandasi* and with their common intentions they had attacked the complainant and caused injuries to him, it is not a fit case where the petitioners could be released on probation but certainly a lenient view on the point of sentence can be taken.

Accordingly, the revision petition qua judgment of conviction stands dismissed. However, considering the facts in its entirety, this Court is certainly inclined to take a lenient view on the point of quantum of sentence and the substantive sentence awarded to the petitioner under Section 326 IPC is reduced from rigorous imprisonment of one year to rigorous imprisonment for six months with no change in sentence awarded under remaining sections and default stipulation.

Resultantly, the present revision petition qua order of sentence dated 8.5.2014 is partly allowed in the above terms. Learned trial Judge is directed to comply with this order forthwith under intimation to this Court.

(Shekher Dhawan)
Judge

November 07, 2017
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No