

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

**CRR No.71 of 2017(O&M)
Date of Decision: 22.03.2017**

Rama Nand

.....Petitioner

Versus

Raman Lal and others

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Mohmmad Arshad, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

CRM No.788 of 2017

For the reasons mentioned in the application, delay of
30 days in filing the revision is condoned.

Application stands disposed of.

Main case

[1]. Petitioner has assailed the judgment dated 15.09.2016 passed by Additional Sessions Judge, Mewat, whereby the appeal of the accused/respondents was dismissed, but the order of sentence was modified to the extent of releasing the respondents on probation of good conduct under the provisions of Section 4 of Probation of Offenders Act, on furnishing personal bonds in the sum of Rs.50,000/- each with one surety each of the like amount for keeping peace and good behaviour for a period of six months.

[2]. In FIR No.340 dated 01.12.2011, respondents were

prosecuted for the offences under Sections 323, 325 and 34 IPC registered at Police Station FP Jhirka, District Mewat. The prosecution story started with the allegation that on 27.10.2011, a *ruqqa* regarding admission of Rama Nand was received by the Police. The police received the MLR of Rama Nand. Thereafter, doctor referred the injured to Government Hospital, Mandikhera. ASI reached at Government Hospital, Mandikhera, but the injured was not found there. Thereafter, ASI reached at the house of Rama Nand in village Sakras, where he was found present. The statement of the injured was recorded to the effect that on 26.10.2011 at about 7.00 PM, he was returning to his house with his servant Sajid on a motorcycle. In the street, house of Raman Lal is situated. When the complainant reached in front of the house of Raman Lal, Raman Lal, his son Pawan Kumar and his wife Prasanni were standing in front of their house in the street. He asked for giving way to the passerby, but they did not bother and commented that the way was not his father. Prasanni picked up a *danda* and started hitting on the left hand of the complainant. Jeewan, Sanjay, Karan Singh also came to the spot. On hearing the noise, Ram Parsad and Puran (brothers of the complainant) also came to the spot. Both the parties started fighting. The complainant did not know as to who hit on his head and with what weapon.

[3]. The trial Court proceeded with the trial. Prasanni Devi and Pawan Kumar were found innocent. The application filed under Section 319 Cr.P.C for summoning them as additional accused was dismissed by the trial Court on 24.10.2013. The injury for the offence under Section 325 IPC was not proved. None of the witness has attributed the grievous injury to any of the accused. Trial Court proceeded to record conviction of the respondents for the offences under Sections 323, 34 IPC and held that offence under Section 325 IPC was not proved. Ultimately, trial Court held Raman Lal, Jeewan, Sanjay and Karan Singh to be jointly liable for the offences under Section 323, 34 IPC and sentenced them to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.500/- each for commission of offence punishable under Section 323 read with Section 34 IPC along with default mechanism vide judgment of conviction and order of sentence dated 28.04.2016 and 30.04.2016.

[4]. Both the parties filed appeals before the lower Appellate Court. Appeal filed by the complainant was dismissed. Appeal filed by the accused was also dismissed on merits, however, accused were granted benefit of probation.

[5]. Learned counsel for the petitioner submitted that the Courts below have erred in not recording conviction of the

respondents under Section 325 IPC. Dr. Mohd. Faruq while appearing as PW 9 has proved the MLR Ex.PW9/B and ruqqa Ex.PW9/C. During cross examination of the witness, he stated that injury Nos.2, 3, 4 and 5 can be suffered by falling from a height of 10-15 feet on concrete floor or falling on a sharp edge stone. He could not tell that injury No.5 could be self suffered or not. The witness did not write injury No.5 fresh.

[6]. Learned counsel for the petitioner could not point out anything contrary which may attract culpability of the respondents in terms of Section 325 IPC by any stretch of imagination. The lower Appellate Court proceeded to grant probation on the ground that the accused were facing protracted litigation since the year 2012. They had received injuries also as per statement of DW 2. Taking into consideration the facts, the lower Appellate Court proceeded to grant probation to the accused. Dr. Parveen Taj Tanwar (PW3) did not examine the complainant and he was not even qualified in radiology or radiography, as the doctor was not having any specified degree in the said field. In his cross examination, the witness admitted that such types of fracture can be self suffered also. The witness did not prepare any X-ray films, therefore, his testimony was read as not sufficient for attracting the culpability of the accused in terms of Section 325 IPC.

[7]. Having considered the submissions and material on record, I do not find any ground to interfere in the judgment dated 15.09.2016 passed by Additional Sessions Judge, Mewat granting probation to the respondents in terms of Section 4 of the Probation of Offenders Act, on furnishing personal bonds in the sum of Rs.50,000/- each with one surety each of the like amount for keeping peace and good behaviour for a period of six months. The present revision petition is dismissed accordingly.

22.03.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No