

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

**CRA-S-2669-SB-2016
Decided on: 16.04.2018**

Gursewak Singh @ Vicky

.... Appellant

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr. A.S. Cheema, Advocate
for the appellant.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

H.S. MADAAN, J (ORAL)

Gursewak Singh @ Vicky, an accused in FIR No.168 of 07.05.2014 for offences under Section 307 and 323 IPC, Police Station Kotwali, faced trial by Additional Sessions Judge, Bathinda on the allegations that on 06.05.2014 at about 09.00 p.m., when complainant Sukhmander Singh alongwith his friend Neeraj Kumar was going on a motorcycle in the area of Gandhi Market, Mall Road, Bathinda, accused driving auto-rickshaw came from behind and while overtaking hit their motorcycle, resulting in an altercation, the accused took out a gandasa from his auto-rickshaw and gave a blow to the complainant Sukhmander Singh, with an intention to kill him, but fortunately the complainant escaped. The second blow with gandasa by the accused was aimed at the head of complainant, but the complainant raised his right arm to ward off the blow and was hit on his right elbow. He fell down and suffered more injuries. The accused ran away from the spot. The injured was taken to Civil Hospital, Bathinda by Neeraj Kumar where he was admitted and medically examined. His statement was recorded by the police. The matter was investigated. Accused was arrested in

this case. After completion of investigation, he was sent up to face trial. Vide judgment dated 04.07.2016, learned Additional Sessions Judge, Bathinda while acquitting him of the charge for offence under Section 307 IPC convicted him for the following offences:-

under Section 324 IPC :	to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.
under Section 323 IPC :	to undergo rigorous imprisonment for a period of six months.

Both the sentences were ordered to run concurrently.

Feeling dissatisfied with the said judgment of his conviction and sentence, he has approached this Court by way of filing the appeal. Notice of which was given to State.

I have heard learned counsel for the appellant-accused and learned State counsel besides going through the record.

Learned counsel for the appellant states that he does not challenge the impugned judgment on the point of conviction, but has got submissions to make as regards the sentence part. He has contended that appellant-accused is of young age of 22 years and a poor person, who earns his livelihood by driving a three wheeler auto-rickshaw, he provides financial support to his family, he does not have any past criminal record and has already undergone more than 5 months of imprisonment in this case. Therefore, a lenient view in the matter may be taken.

A perusal of the custody certificate filed by the State counsel goes to show that appellant-accused has undergone 5 months and 23 days of imprisonment. He is not shown to be involved in any other criminal case.

Keeping in view the facts and circumstances of the case and the submissions made by the counsel for the appellant, I am of the view that ends of justice shall be adequately met if appellant-accused is sentenced to imprisonment already undergone by him in this case while maintaining the fine part intact which is said to have been paid.

Therefore, appeal is disposed of inasmuch as the impugned judgment is upheld as regards the conviction part, but on the point of sentence, the same is modified and the appellant is sentenced to imprisonment already undergone by him in this case.

(H.S. MADAAN)
JUDGE

16.04.2018

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No