

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

**(215) CRM-7606-2015 in/and
CRM-A-422-MA-2015
Decided on: April 02, 2018.**

Gurmeet Singh

.... Appellant

Versus

State of Punjab and Ors.

..... Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. G.S. Sirphikhi, Advocate, for the appellant.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

None for respondents No. 2 to 5.

M.M.S. BEDI, J (ORAL)

CRM-7606-2015

The miscellaneous application is allowed.

Delay of 21 days in filing the appeal is condoned.

CRM-A-422-MA-2015

For having received parietal bone cut of proximal phalanx of right little finger and left tibia by the appellant-complainant at the hands of respondents No.2 to 5, the lower Court has recorded their conviction under Section 324 IPC only and released them on probation.

With the assistance of learned counsel for the applicant-appellant, we have gone through the nature of the injuries which were recorded in x-ray report Ex. C2. It is not a case of fracture but is merely a case based on the injuries which are parietal bone cut on the left tibia and proximal phalanx of right little finger.

We have seen the grievous injuries in context to the definition of Section 320 IPC.

Counsel for the appellant has submitted that taking into consideration the nature of the injuries suffered by the complainant, the respondents No. 2 to 5 were liable for conviction under Section 326 IPC and not 324 IPC. Counsel relies upon judgment of this Court in **State of Punjab Vs. Nichhatar Kumar and others, 2004 (2) R.C.R. (Criminal) 742.**

With the assistance of counsel for the appellant, we have gone through the incised injury which was subject matter of the above said case. In the said case, an incised wound of 5 cms X ½ cm. had been found on the left parietal region of head where underlying bone was cut. The injury was found to be grievous to record conviction under Section 326 IPC. The said judgment is not, in any manner, found to be applicable as there was controversy whether on account of receipt of injury, the offence would be covered under Section 307 IPC or 326 IPC.

We have carefully examined the injuries and the seat of injuries in the present case.

The parietal bone cut on the tibia bone and proximal phalanx of right little finger will not fall under the definition of grievous injury under Section 320 IPC. In criminal cases, the nature of injury in each case is to be seen.

The judgment in **Nichhatar Kumar's case (supra)** does not lay down an absolute law that every bone cut is an incised wound would tantamount to grievous injury. In **Balwant Singh and others Vs. State of Punjab, 1978 (Criminal Law Times) 376**, similar cut injury on the tibia had been found to be an injury not falling under the ambit of Section 326 IPC. The probability of a cut injury on tibia or small little finger being self suffered injury can also not be ruled out in cases of assault.

No ground is made out to interfere in the order of acquittal
under Section 326 IPC. The leave to appeal is thus declined.

Dismissed.

(M.M.S. BEDI)
JUDGE

April 02, 2018.
harsha

(GURVINDER SINGH GILL)
JUDGE

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