

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

305

**CRR No. 2212 of 2007 (O&M)
Date of Decision : 21.12.2018**

Attar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present : Mr.A.P.Singh, Advocate for the petitioner.

Mr. H.S.Grewal, Addl. A.G. Punjab.

HARNARESH SINGH GILL, J.

Challenge in this revision petition is to judgment dated 03.09.2007 passed Additional Sessions Judge, Patiala whereby appeal filed by the petitioner against judgment and order dated 22.07.2005, passed by the Judicial Magistrate Ist Class, Samana has been dismissed. Vide judgment dated 22.07.2005, passed by Judicial Magistrate Ist Class, Samana, petitioner along with Jaswinder Singh and others have been convicted and sentenced under Sections 326, 336 read with Section 34 of IPC in FIR No. 18 dated 19.01.1999 registered at Police Station Patran and sentenced to undergo RI for a period of two years alongwith fine of Rs.1000/- under Section 326 IPC and in default of payment of fine, further undergo RI for a period of four months; and to further undergo RI for period of three months under Section 336 read with 34 IPC.

Shortly put, the case of prosecution as unfolded by prosecution is that on 18.01.1999 Surjit Singh @ Seeta son of Gurdev Singh had been attacked by Attar Singh son of Virsa Singh armed with Gandasa, his son

Jaswinder Singh @ Bindu armed with Gandasa, brother of Attar Singh namely Avtar Singh armed with pistol and Nimma armed with Barcha. Avtar Singh shot a fire from his pistol. Attar Singh gave a Gandasa blow which hit on the finger of his left hand. Thereafter, Jaswinder Singh @ Bindu gave a gandasa blow which hit on his head and its front side and accused decamped from the place of occurrence with their respective weapons. Thereafter injured was brought to Civil Hospital, Samana where his statement has been recorded and FIR No. 18 dated 19.01.1999 under Sections 326/324/336/34 IPC & 25/27 Arms Act, Police Station Patran was registered against the accused. Accused-Attar Singh, Jaswinder Singh and Nirmal Singh @ Nimma were arrested on 23.01.1999 and accused-Avtar Singh was declared proclaimed offender, vide order dated 01.06.1999. After completing the investigation, challan was presented in the court, against the accused.

Finding a prima facie case, charge under Section 326, 336, 34 IPC against accused-petitioner was framed to which he pleaded not guilty and claimed trial.

On the strength of evidence adduced by the prosecution as well as after affording an opportunity to the accused and hearing learned counsel for the parties, accused-Attar Singh was sentenced to undergo RI for a period of two years and fine of Rs.1000/- under Section 326 IPC and in default of payment of fine, the petitioner shall further undergo RI for a period of four months and to further undergo RI for period of three months under Section 336 read with 34 IPC vide order dated 22.07.2005. Thus, vide judgment dated 03.09.2007, passed by Additional Sessions Judge, appeal against the aforesaid decision dated 22.07.2005 was also dismissed.

Aggrieved against his conviction and sentence, petitioner-accused preferred the instant revision petition.

Heard learned counsel for the parties and perused the record but this court does not find any scope for interference so far as the conviction of the petitioner under Sections 326, 336 read with 34 IPC is concerned. Accordingly, conviction of the petitioner is affirmed/upheld.

As far as the quantum of sentence imposed upon the petitioner is concerned, this Court finds some mitigating circumstances. The petitioner is the first offender. He is the sole bread winner of his family. He is not the previous convict. Otherwise also, petitioner remained behind the bars for 4 months and 08 days. Thus, this Court is of the considered view that a chance be given to the petitioner to improve his life and in the given circumstances, sentence imposed by the trial court to the extent of rigorous imprisonment for 2 years being on higher side and an exorbitant one, which can be termed not to be commensurate with the offence complained of.

This court in cases of *Swaran Singh and others Versus State of Punjab* reported in 2001 (1) CurLJ (CCR)574 and in the case titled as *Des Raj versus State of Haryana* reported in 2017(3) RCR (Criminal) 298 and by further relying on the decisions of co-ordinate Benches i.e. *Maya Bai and others versus State of Punjab* reported in 2006(1)RCR (Criminal) 687, *Dharamvir and others versus State of Haryana*, reported in 2011(2) Law Herald 1134, *Charan Singh versus State of Punjab* reported in 2016 (Criminal Law Journal) 1148 and *Jaspal Singh @ Jassa @ Tota and another versus State of Punjab*, reported in 2015(7) RCR (Criminal) 652 have drawn the conclusion to reduce the sentences awarded to the extent actually undergone by them.

This Court is, thus, of the considered view that ends of justice would meet, in case, sentence of the petitioner is reduced to the period already undergone by him but with no change in the fine clause.

In the light of what has been discussed above, the criminal revision petition is dismissed with modification as observed above.

21.12.2018

pooja saini

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No