

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

CRR No.1260 of 2010 (O&M)
Decided on:-29.11.2018

Ajit

.....Petitioner.

Versus

State of Haryana & another

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Rajesh K. Kataria, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Harsh Bunker, Advocate
for respondent no.2.

HARI PAL VERMA, J. (Oral)

The petitioner – Ajit has filed the present revision petition against the judgment dated 30.03.2010 passed by learned Additional Sessions Judge, Bhiwani, whereby his appeal against the judgment of conviction dated 15.11.2006 and order of sentence dated 17.11.2006 passed by learned Additional Chief Judicial Magistrate, Bhiwani in criminal complaint No.286A-1 of 1999 titled as *Virbhan Vs. Ajit and others* under Sections 323/325/452/218/219/506, 34/120-B IPC, Police Station Sadar, Bhiwani was dismissed.

Briefly stated, the complainant-Virbhan had filed a complaint against the petitioner-accused and others under Sections

323/325/452/218/219/506, 34/120-B IPC on the allegations that the complainant and the accused are neighbours and there used to be quarrels between the ladies. The accused Ajit got his main door in the street forcibly closed and out of fear. The complainant had stopped using that street. On 09.09.1999 at about 6.00 A.M., they were playing a cassette of Shiva in their house. In the meantime, the complainant heard that the accused Ajit, Kapoor and Rajesh were using filthy language near the door of their house. When his brother Surender opened the door, all the accused pushed his brother and entered into their house. Accused Kapoor caught hold of his brother Surender and Ajit gave a *lathi* blow on the head of Surender. Rajesh gave a brick bow on his hand. On their raising alarm, Jai Bhagwan and Roshni came there. Ajit threatened them that in case they play the cassette again, he will kill them. The accused left their house. Thereafter, the complainant along with his brother Jai Bhagwan and Surender went to Police Post Kharak Kalan to report the matter, but the police official i.e. HC Sunhera Singh refused to enter their report, as he belonged to the village of the wife of accused Ajit. Then, they went to General Hospital, Bhiwani and due to serious injuries, the doctor admitted them, where they remained hospitalized till 15.09.1999. A constable also visited the hospital, who got the signatures of Surender, but no action was taken against the accused because of the influence of HC Sunhera Singh.

On 21.9.1999 at about 6-00/6-30 p.m., Constable Sukhbir informed that Chhotu Ram, Incharge of Police Post, has summoned them. On this, the complainant, Jai Bhagwan, Surender, Hemraj and his father along with some respectables of the village went to the police post Kharak Kalan,

where ASI Chhotu Ram pressurized them to compromise the matter and when they refused to do so, he threatened them that he will challan them under Section 107/151 CrPC. He also obtained signatures of Surrender and prepared a forged application and thereafter, challaned both the parties under Section 107/151 CrPC. Since no action was taken, the accused kept on hurling abuses and threatening the complainant, due to which, they shifted to the house of his uncle Soni. The complainant party also met DSP concerned in this regard and submitted a complaint to him, which was forwarded to the SHO concerned and subsequently, FIR No.307 dated 01.10.2017 under Sections 323/325 IPC read with Section 34 IPC was registered against accused Ajit only, whereas no case was registered against the remaining accused. On receipt of copy of the FIR, the complainant came to know that the police while concealing the true facts had prepared an incorrect report on the blank papers signed by Surrender Singh and illegally challaned the complainant party itself under Section 107/151 CrPC. Therefore, the complaint in question was filed.

Learned trial Court after hearing both the parties and appreciating the evidence on record, convicted the petitioner along with other accused under Sections 323, 325, 452 and 506 read with Section 34 IPC and sentenced him to undergo RI for a maximum period of one year with fine. ASI Chhotu Ram and HC Sunhera Singh were also convicted for offence under Section 218 IPC and sentenced to undergo RI for a period of six months along with fine.

It is also relevant to mention here that the accused was convicted in the complaint case, whereas in the FIR case filed on behalf of the State, the

petitioner-accused was acquitted on the ground that it will amount to double jeopardy and will be violative of Article 20(2) of the Constitution of India.

Aggrieved from the judgment of conviction and order of sentence, the petitioner-accused along with other accused preferred an appeal before learned Additional Sessions Judge-II, Bhiwani, which was dismissed, though the conviction and sentence of police officials ASI Chottu Ram and HC Sunehara Singh was set aside.

It is in the aforesaid circumstances, the petitioner-accused has filed the present revision petition.

At this stage, learned counsel for the petitioner has not challenged conviction of the petitioner and has confined his arguments *qua* the quantum of sentence only. He has contended that as against the awarded sentence for a maximum period of one year, the petitioner has already undergone more than 2 months and 15 days. Moreover, the petitioner is a first time offender and there is no other criminal case pending against him. He is the sole bread earner of his family and suffering the agony of criminal proceedings since 23.10.1999 i.e. the date when the complaint in question was filed against him. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner and the fact that there is no other case against him, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 323, 325, 452 and 506 read with Section 34 IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, there is no scope for interference by this Court in revisionary jurisdiction by re-appreciating the evidence. Considering the limited argument wherein counsel for the petitioner has not assailed the judgments of conviction on merits and has, rather, restricted his arguments qua the quantum of sentence only, therefore, the conviction of the petitioner is affirmed.

So far as the issue on quantum of sentence is concerned, admittedly, against the awarded maximum sentence of one year, the petitioner has already undergone imprisonment for 2 months 15 days. He is a first time offender and the sole bread earner of his family. There is no other case pending against him. He has been facing the agony of criminal proceedings since 23.10.1999 i.e. the date when the complaint in question was filed against him. Taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of about 19 years, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Therefore, sentence of petitioner Ajit is reduced to the period already undergone by him.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

November 29, 2018
AK

(HARI PAL VERMA)
JUDGE

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