

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1330 of 2017
Date of decision: 19.02.2018

Ramesh

... Petitioner

versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Raj Paul Kansal, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Sudhir Mittal, J (Oral)

On 07.09.2005 FIR No.337 was registered at Police Station Chandni Bagh, Panipat under Section 326 read with Section 34 IPC on the statement of the complainant Dinesh. He had submitted that Babli d/o Dharampal was married with Ramesh (petitioner) about ten/eleven years ago and three children were born out of the said wedlock. Due to frequent fights between the said Babli and Ramesh, she had been staying with her parents for the last ten/fifteen days. She had started working in the Grover factory and on 07.09.2005, she went for work but did not return home. Then, the complainant along with father of Babli and her two brothers went to her matrimonial home where they met Babli, her husband Ramesh and in-laws Tara Singh and Sarti Devi. On being asked why Babli had come to her matrimonial house, she told that she had been forcibly brought by her husband. When father, namely, Dharampal asked Babli to accompany him, an altercation took place and stones were thrown at them. Babli was

brought from the house of Ramesh but they were chased by Ramesh and his parents. Ramesh was holding a bottle in his hands and his parents exhorted him to burn them with acid. Thus, Ramesh threw acid upon them and caused injuries.

After completion of investigation and other formalities, challan was presented in the Court. Copies under Section 207 Cr.PC were supplied to the petitioner and his co-accused and thereafter, charge under Section 326 read with Section 34 IPC was framed against them to which, they pleaded not guilty and claimed trial. During the trial, the prosecution examined as many as twelve witnesses and then closed its evidence. In their statements under Section 313 Cr.PC, the petitioner and his co-accused denied all the incriminating evidence brought on record and pleaded their innocence and fake implication and did not lead any evidence in their defence.

Vide judgment dated 05.12.2013 and order of sentence dated 06.12.2013, the trial Court held them guilty of the offence under Section 326 read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each and in default of payment of fine to further undergo simple imprisonment for a period of one month. Aggrieved by the said judgment, an appeal was preferred and vide judgment dated 17.02.2017 passed by Addl. Sessions Judge, Panipat, the parents of the petitioner namely Tara Singh and Sarti Devi were acquitted whereas conviction and sentence of the petitioner was maintained.

Learned counsel for the petitioner contends that injuries have allegedly been inflicted upon the father and the brothers of Babli (wife of the petitioner) but none of them is complainant. The complainant is a third

person and therefore, the story is rendered doubtful. He further submits that all the prosecution witnesses are interested witnesses and no independent witness has been examined. He also relies upon the deposition of PW-7 – Krishan s/o Dharmapal, PW-10 Dinesh – complainant and PW- 11 Sandeep to submit that these witnesses did not support the prosecution version in the Court as they stated that the accused persons did not throw acid upon them. Babli, wife of the petitioner, has not been examined as witness. Therefore, the contention is that apart from PW-3 (father of Babli), PW-5 (brother of Babli) and PW-8 (another brother of Babli) none of the prosecution witness has said anything against the petitioner. The entire incident is concocted and thus, the benefit of doubt must go to the petitioner. It is also stated that the petitioner has undergone actual custody of one year and four months out of the substantive sentence of two years and he is the first offender. Thus, leniency should be shown.

On the other hand, learned State counsel submits that the injured have stuck by the case of the prosecution and that the jurisdiction under Section 397 Cr.PC is limited to examining the correctness, legality and propriety of any finding, sentence or order and as to the regularity of the proceedings of a inferior Court. No such illegality, impropriety or irregularity has been pointed out and thus, the impugned judgment does not call any interference. It is further submitted that the medical evidence on record supports the oral testimony and on the disclosure statement of the petitioner, the recovery of acid bottle was effected.

No doubt, some of the prosecution witnesses have not attributed any over-act to the petitioner but the injured remained steadfast and were not shaken during the trial. The oral evidence as well as medical

evidence has been examined and evaluated by the Courts below and nothing has been pointed out to show that any evidence has been misread or that material evidence has been ignored. Learned counsel for the petitioner has also not been able to place anything on record to enable this Court to return a finding that there was any illegality, impropriety or irregularity committed by the trial Court or the first Appellate Court. Thus, merely because the wife of the petitioner, namely, Babli has not been examined, the case of the prosecution cannot be said to be vitiated. It appears that some of the PWs who were not closely linked with the incident or not seriously injured, have been won over by the accused and their testimony would not persuade this Court to exercise its jurisdiction under Section 397 Cr.PC. The petitioner has been rightly convicted for commission of offence under Section 326 read with Section 34 IPC and thus, there is no ground to interfere with the impugned judgments of the Courts below.

The submission of the learned counsel for the petitioner for reducing the sentence of the petitioner to the period already undergone by him, is also rejected for the reason that acid throwing is a serious offence which greatly endangers public safety. It causes both physical and mental trauma and deserves no lenient treatment.

For the reasons mentioned hereinabove, the instant revision petition being devoid of any merit is dismissed.

19.02.2018
sonia

(SUDHIR MITTAL)
JUDGE

Whether speaking/non-speaking? Yes/No

Whether reportable? Yes/No