

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

**CRR No. 1051 of 2018 (O&M)
DATE OF DECISION :- May 31, 2018**

Raghbir Singh @ Kaka

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present:- Mr. G.S. Sidhu, Advocate for the petitioner.

Mr. Sulinder Kumar, AAG, Haryana.

Mr. R.S. Dhaliwal, Advocate
for Mr. B.S. Dandiwal, Advocate for respondent no.2.

Accused Raghbir Singh faced trial by Chief Judicial Magistrate, Sirsa on the allegations that on 18.8.2009 at about 12.00 noon, complainant Ramesh Kumar along with his wife Maya Devi was going to Sirsa via village Najedela by a tractor. Agricultural land of Raghbir Singh @ Kaka Singh falls on the way. Raghbir Singh signalled the tractor to stop, as such complainant brought it to a halt. Raghbir Singh gave a gandas blow from reverse side hitting the complainant on his left hand and repeated another with gandas blow hitting the complainant on the left shoulder. He gave two more blows hitting complainant on his back and on his left foot. When wife of complainant raised an alarm, accused ran away from the spot along with gandas giving threats to kill him in future. Complainant-injured was brought home from where he was taken to General Hospital, Sirsa by his brother-in-law Mahender Singh and son Rinku. He remained unconscious on 18/19.8.2009 and he regained consciousness on 20.8.2009. He got his statement recorded with the

police which led to registration of formal F.I.R..

The matter was investigated. The accused was arrested in this case. After completion of investigation and other formalities accused was sent up to face trial which resulted in his conviction and sentence by Chief Judicial Magistrate, Sirsa vide judgment dated 26.3.2015 as follows :-

Offence	Sentence awarded
323 IPC	To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.300/-. In default of payment of fine, convict shall further undergo simple imprisonment for a period of ten days.
326 IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs.2000/-. In default of payment of fine, convict shall further undergo simple imprisonment for a period of one month.
506 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, convicts shall further undergo simple imprisonment for a period of fifteen months.

The substantive sentences were ordered to run concurrently.

The accused-convict had preferred an appeal to the Court of Sessions but the same was dismissed by Additional Sessions Judge, Sirsa vide judgment dated 21.2.2018. He was taken into custody. He has preferred a Revision Petition before this Court, notice of which was given to the respondents.

The matter has since been compromised between the parties. In the statements got recorded by the revisionist-convict and complainant-respondent they have admitted the factum of compromise stating that the Panchayat has got the dispute settled between them. The complainant had stated that he has got no objection if the F.I.R. is cancelled. Report from the

Chief Judicial Magistrate, Sirsa in that regard has been received. The law is well settled that F.I.R. cannot be cancelled at appellate stage or at the stage of Revision on the basis of compromise arrived at between the parties.

However, the compromise so arrived at between the parties can be taken into consideration on the point of quantum of sentence. In the instant case, as per custody certificate placed on record by the State counsel the accused has undergone three months of total sentence. Though he is shown to be involved in a murder case but as per copy of judgment placed on record by the counsel for the petitioner, he was acquitted in that case. The injuries are on the non vital part. Petitioner is stated to be the sole bread winner of his family comprising small children. He is not a previous convict. He comes out to be a middle aged person.

Since the dispute has been amicably settled between him and the complainant and both the parties belong to the same village want to live in peace and harmony in future, therefore, the Criminal Revision Petition is accepted partly. Resultantly, the impugned judgments passed by the Courts below are upheld as regards the conviction part. However, with regard to sentence, the same are modified and the petitioner is sentenced to imprisonment already undergone by him in this case whereas maintaining the fine part. Since it is stated that petitioner is in custody in this case, so he is ordered to be released immediately, if his custody is not required in connection with any other case.

(H.S. MADAAN)
JUDGE

May 31, 2018
p.singh

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No