

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1398 of 2018

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Date of decision:16.7.2018

Karamjit Singh

...Petitioner

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Varun Mittal, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 16.2.2018 passed by learned Additional Sessions Judge-I, Sangrur, whereby the appeals filed by the accused-appellants (respondents No.2 to 5 herein) against the judgment of conviction and order of sentence dated 5.5.2016 passed by the learned Additional Chief Judicial Magistrate, Sangrur, convicting and sentencing the accused for the offences under Sections 323, 325 read with Section 34 IPC have been dismissed with modification of sentence by releasing the accused-Gulshan Kumar and Gurdeep Singh on probation. The appeal filed by the complainant-appellant (petitioner herein) for enhancement of sentence has also been dismissed.

I have heard learned counsel for the revision petitioner and

have gone through the record.

From the record, especially the judgments, I find that the challan was presented against the accused (respondents No.2 to 5 herein) in FIR No.139 dated 29.9.2013 registered for the offences under Sections 325, 323, 341 read with Section 34 IPC at Police Station, Sadar Sangrur, District Sangrur. The brief facts of the case against the accused (respondents No.2 to 5 herein) Balkar Singh son of Rajpal Singh, Gurdeep Singh alias Jugnu, Gulshan Kumar and Balkar Singh alias Bugga son of Rangi Ram, as noted by the learned Additional Chief Judicial Magistrate, Sangrur in his judgment dated 5.5.2016 are as under:-

“The brief facts of the prosecution story are that on 28.09.2013, a telephonic message was received by M.H.C., P.S. City Sangrur regarding admission of injured Karamjit Singh son of Harpal Singh, caste Jatt resident of Village Mangwal. On the receipt of aforesaid message H.C. Sukhwant Singh along-with other police officials reached at Civil Hospital Sangrur and moved an application to the doctor regarding fitness of injured for recording his statement. The doctor concerned had declared the injured unfit to make statement by making endorsement on the application moved by the Police. The M.L.R. of Karamjit Singh injured/complainant was obtained. On 29.9.2013, the M.L.R. along-with the application was handed over to SI Jaagar Singh, upon which, SI Jaagar Singh along-with other police officials went to Civil Hospital Sangrur and sought the opinion

of doctor regarding fitness of injured. The doctor had declared the injured fit to make statement. The complainant/injured Karamjit Singh got recorded his statement to S.I. Jaagar Singh. The subject matter of the same is that he is resident of Village Mangwal and is an agriculturist. He is also member of Mahavir Gym, Ekta Vihar Colony, Sangrur. On 28.9.2013, when he came out of the said Gym at about 7.15 a.m. and took his motorcycle, then Balkar Singh son of Rajpal Singh along-with some another person started beating the complainant. Accused Balkar Singh encircled the complainant by saying that he (complainant) be not spared. In the meantime, three/four persons came there and started beating the complainant. Accused Balkar Singh gave iron pipe blow on the backside of right leg and ankle of the complainant due to which he (complainant) fell own. Thereafter, accused Balkar Singh and his associates gave stick blows on the left biceps of elbow and on the fingers as well as on the left leg. The complainant raised hue and cry, upon which, Harpal Singh father of the complainant along with other persons, who were working in nearby fields, reached there. Thereafter, accused Balkar Singh and others fled away from the spot. The reason behind the occurrence is that there was previous dispute between the parties. Thereafter, the injured/complainant was got admitted in Civil Hospital Sangrur by his father Harpal Singh after

arranging the vehicle. Thereafter, the complainant signed his statement in Punjabi script, which was endorsed by SI Jaagar Singh. Upon the said statement and MLR the offence under Section 341, 323, 148, 149 IPC was made out against accused Balkar Singh and others. Thereafter, the FIR was registered against the accused Balkar Singh and others. SI Jaagar Singh visited the spot and prepared the site plan and recorded the statement of witnesses under Section 161 Cr.P.C.

3. On 15.10.2013, SI Jaagar Singh obtained the injured report of Karamjit Singh complainant/injured, as per which, injuries No.1 to 3 were declared as grievous, whereas, the remaining injuries were declared as simple in nature. On the basis of injury report, offence under Section 325 IPC was enhanced. On 24.10.2013, accused Balkar Singh was arrested and his personal search was conducted. Recovery of iron pipe used in the commission of offence was effected from the possession of accused, which was taken into police possession vide separate recovery memo. Accused was interrogated and was released on bail at the spot. During interrogation, accused Balkar Singh son of Rajpal Singh nominated accused Balkar Singh alias Bugga son of Rangi Ram. On 4.11.2013, accused Balkar Singh alias Bugga was arrested and his personal search was conducted. The recovery of stick was effected from his possession, which was also taken into police possession vide

separate recovery memo. Accused was released on bail at the spot. During interrogation, accused Balkar Singh alias Bugga nominated accused Gulshan Kumar alias Tinku and Gurdeep Singh alias Jugnu.

4. On 8.11.2013, SI Jaagar Singh arrested accused Gulshan Kumar and Gurdeep Singh and their personal search was conducted. Memos were attested by the witnesses. The recovery of motorcycle was effected from the possession of accused Gulshan Kumar, which was taken into police possession along with RC vide separate recovery memo. Accused Gulshan Kumar and Gurdeep Singh were released on bail at the spot vide separate memo after thorough interrogation. On 17.11.2013, SI Jaagar Singh RC of the motorcycle recovered from the possession of accused and was got verified from D.T.O. Office Sangrur. During interrogation on the basis of supplementary statement of complainant, offence under Section 148, 149 IPC was reduced and offence under Section 34 was introduced. After completion of investigation the challan against the accused Balkar Singh and others for the offence under Section 325, 323, 341, 34 IPC was prepared and presented in the Court under Section 173 Cr.P.C. with the submission to summon the witnesses mentioned in the column No.6 and trial accordingly.”

The accused were charge-sheeted for the offences under Sections 341,

323, 325 read with Section 34 IPC.

The learned Additional Chief Judicial Magistrate, Sangrur, after appreciating the evidence convicted and sentenced all the accused as under:-

“Name of the accused	Offence U/S	Sentence	Fine	In default
Balkar Singh son of Rangi Ram	323 read with Section 34 IPC	RI for 6 months	₹500/-	SI for 15 days
-do-	325 IPC	RI for 1 year	₹1000/-	SI for 30 days
Gurdeep Singh	323 read with Section 34 IPC	RI for 6 months	₹500/-	SI for 15 days
-do-	325 read with 34 IPC	RI for 1 year	₹1000/-	SI for 30 days
Gulshan Kumar	323 read with Section 34 IPC	RI for 6 months	₹500/-	SI for 15 days
-do-	325 read with 34 IPC	RI for 1 year	₹1000/-	SI for 30 days
Balkar Singh son of Rajpal	323 read with Section 34 IPC	RI for 6 months	₹500/-	SI for 15 days
-do-	325 read with 34 IPC	RI for 1 year	₹1000/-	SI for 30 days”

Against the judgment of conviction and order of sentence, appeals had been filed by the convicts-appellants and the learned Additional Sessions Judge-I, Sangrur vide his judgment dated 16.2.2018 released Gulshan Kumar and Gurdeep Singh on probation in terms of the provisions of Section 4(3) of the Probation of Offenders Act, under the supervision of the District Probation Officer, Sangrur, for a period of one year subject to furnishing probation bonds by him in the sum of ₹35,000/- each with one surety in the like amount with the condition that both these appellants, namely, Gulshan Kumar and Gurdeep Singh shall be of good behaviour during the said period and shall not commit any offence etc. They were

further burdened to pay compensation of ₹15,000/- each to be paid to the injured Karamjit Singh. However, the sentences of Balkar Singh son of Rajpal Singh and Balkar Singh son of Rangi Ram were maintained and the appeal filed by the complainant-petitioner for enhancement of the sentence of the accused was dismissed.

Aggrieved from the impugned judgment passed by the learned Additional Sessions Judge, Sangrur, the complainant-petitioner Karamjit Singh-injured has filed the present revision petition for setting aside the probation order of Gulshan Kumar and Gurdeep Singh and for enhancement of the sentences of the other accused-Balkar Singh son of Rajpal Singh and Balkar Singh alias Bugga son of Rangi Ram.

A perusal of the record shows that as per the FIR version of the prosecution, Balkar Singh son of Rajpal Singh was only named and other persons were not named. As per the allegations, Balkar Singh was stated to be armed with iron pipe and caused the injury. The present respondents-accused, who were not named were stated to be armed with sticks etc. and gave stick blows. Simple injuries were attributed admittedly to Gurdeep Singh and Gulshan Kumar-respondents No.4 and 5.

Keeping in view the facts and circumstances of the present case, I find that the order passed by the learned Additional Sessions Judge, Sangrur, releasing Gurdeep Singh and Gulshan Kumar on probation under the supervision is a legal order and, in no way, the case is made out to enhance their sentence. Nothing has been shown that Gulshan Kumar and Gurdeep Singh are not the first offenders etc. As regards Balkar Singh son

[8]

of Rajpal Singh and Balkar Singh alias Bugga son of Rangi Ram, they have been sentenced to undergo rigorous imprisonment for one year each and to pay a fine of ₹1,000/- each and in default thereof to further undergo simple imprisonment for 30 days each for the offence under Sections 325 read with Section 34 IPC and Section 325 IPC respectively. They have also been sentenced to undergo rigorous imprisonment for six months each and to pay a fine of ₹500/- each and in default thereof to further undergo simple imprisonment for 15 days each for the offence under Section 323 read with Section 34 IPC. In no way, keeping in view the facts and circumstances of the present case, their sentence is liable to be enhanced.

Therefore, keeping in view the above facts, I do not find any merit in the present criminal revision and the same is dismissed.

However, nothing stated above will affect the proceedings of appeals, if any, filed by the convicts. These findings are only for the purpose of this revision petition filed by the petitioner for enhancement of the sentence of the convicts.

July 16, 2018.

(Inderjit Singh)
Judge

hsp

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