

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

CRR No.1704 of 2018 (O&M)
Decided on:-September 24, 2018.

Kala Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Ravish Bansal, Advocate
for the petitioner.

Mr. Surinder Pal Singh Tinna, Addl. A.G., Punjab
for the respondent-State.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 09.04.2018 passed by learned Additional Sessions Judge, Bathinda whereby his appeal against the judgment of conviction and order of sentence dated 02.07.2016 passed by learned Judicial Magistrate 1st Class, Phul, was dismissed.

Briefly stated, an FIR No.43 dated 26.06.2014 under Sections 323 and 325 IPC was registered against the petitioner at Police Station Balianwali, District Bathinda on the allegations that on 28.05.2013, while complainant Hardial Singh son of Bhag Singh, resident of village Bhunder was taking his animals at village pond, the petitioner caused simple as well as grievous injuries to him blunt weapon i.e. stick.

After completion of investigation, Challan was presented in the Court. The copies of Challan as envisaged under Section 207 Cr.PC were supplied to the petitioner free of costs. On finding a prima-facie case, the petitioner was charge sheeted for the commission of offence punishable under Sections 323 and 325 IPC to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 02.07.2016 convicted the petitioner and sentenced him as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 323 IPC	Simple imprisonment for a period of six months and to pay a fine of Rs.200/- and in default thereof, to further undergo simple imprisonment for 15 days.
Under Section 325 IPC	Rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for two months.

It was further ordered that both the substantive sentences shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 09.04.2018 passed by learned Additional Sessions Judge, Bathinda, the said appeal was dismissed.

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

At the outset, learned counsel for the petitioner has not challenged the revision on merits, however, prayed that some lenient view may be taken qua quantum of sentence only. He has contended that as against the awarded sentence of two years, the petitioner is in custody since 09.04.2018 i.e. the date when his appeal was dismissed.

He has further contended that the petitioner is a poor person and is not a previous convict. There is no other case pending against him. He has been suffering the agony of criminal proceedings since 26.06.2014, the date when the FIR in question was registered 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, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner. However, he has conceded that the petitioner is not a previous convict and there is no other case pending against the petitioner. The custody certificate of the petitioner filed in the Court, is taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 323 and 325 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 revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, the custody certificate reveals that as against the awarded sentence of two years, the petitioner has already undergone imprisonment for a period of 5 months and 29 days including remission as on 22.09.2018. In this manner, till date, the petitioner has already undergone imprisonment for a period of six months including remission. He has been facing the agony of criminal proceedings since 26.06.2014, the date when the FIR in question was registered against him. He is not a previous convict and no other case is pending against him.

Therefore, taking into account the protracted trial, antecedents of the petitioner, coupled with the fact that as against the awarded sentence of two years, he has already suffered incarceration for a period of six months including remission, 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.

Ordered accordingly.

However, there will be no change in the sentence of fine awarded to the petitioner.

Perusal of the order of sentence dated 02.07.2016 passed by learned trial Court shows that the amount of fine has already been deposited

by the petitioner. Therefore, he be released from custody forthwith, if not required in any other case.

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

September 24, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No