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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-131-2019 (O&M)
Date of Decision : July 23, 2019

Amrik Singh and another Petitioners

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. S.P.S.Sidhu, Advocate
for Petitioner No.1.

Mr. K.S.Brar, Advocate
for Petitioner No.2.

Mr. Ramesh Kumar Ambavta, AAG, Haryana

Ms. Sunita Nambiar, Advocat,
for the complainant.

SHEKHER DHAWAN, J.

Present revision petition (CRR-131-2019) is directed against the judgment of conviction dated 9.1.2015 and order of sentence dated 12.1.2015 passed by learned Sub Divisional Judicial Magistrate, Assandh in Criminal Complaint No. 46 of 2012 titled **Rishi Pal alias Sonu Vs. Amrik Singh and another**, vide which petitioners, Amrik Singh and Harvinder Singh were convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 326 IPC	to undergo Rigorous Imprisonment for a period of 2 Years and to pay a fine of Rs. - 1000/- each	to further undergo Imprisonment for a period of two months.
U/s 324 IPC	to undergo Rigorous Imprisonment for a period of 1 Year.	-

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Under Section	Sentence	In default
U/s 323 IPC	to undergo Rigorous Imprisonment for a period of 6 months.	-

Both the sentences were ordered to run concurrently.

2. The appeal preferred by the present petitioners against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Karnal vide judgment dated 7.1.2019.
3. Learned counsel for the petitioners, at the very outset, contended that he does not challenge the judgment of conviction especially in the light of the fact that petitioner No.1, Amrik Singh is now of the age of 85 years, who has been attributed injury on the little finger of injured with sword and petitioner No.2, Harvinder Singh was attributed only simple injury. By now, petitioner No.1, Amrik Singh has already undergone 2 months and 28 days of actual sentence and he has been released on interim bail vide orders dated 5.4.2019 passed by this Court on account of the fact that he is a patient of HCV Positive and petitioner No.2. Harvinder Singh has undergone substantial period of sentence.
4. Facts relevant for the purpose of decision of the present revision petition; the matter relates to dispute regarding taking over of possession of land measuring 25 Kanals 6 Marlas and civil litigation was going on. During the said civil litigation, the accused made a statement that they would not interfere in the land of Kulwant Singh (complainant's father). However, on 23.11.2009, complainant Rishipal was present in the Court. At about 1.30 PM, accused persons, namely, Amrik Singh armed with a sword and his sons, Daler Singh and Harvinder Singh were also present there. All the accused persons raised a *lalkara* to teach the

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complainant a proper lesson. Amrik Singh gave a sword blow which hit his right hand; Daler Singh hit him near the left eye and Harvinder Singh gavh a blow with the corner of *danda* on his mouth and thereafter they fled away from the spot. Medico legal examination was got done and as per the Medico Legal Report, following injuries were found on the person of Rishipal by Dr. J.P.Chahal.

- “1. Abrasion of size 1 cm x 0.2 cm on left eyebrow lateral aspect with fresh bleeding present.
 2. Pain and tenderness lower central incisor teeth, advised dental opinion.
 3. Pain and swelling with tenderness in occipital region.
 4. Bleeding from bilateral nostrils present, advised ENT opinion.
 5. Amputation right little finger at the level of mid phalanx with fresh active bleeding present, advised X-ray right hand AP/lateral.”
5. The matter was reported to the Police, but no FIR was registered and as such complaint was filed before the Court.
6. Learned trial Magistrate passed the summoning order and during the trial, prosecution witnesses were examined and after trial learned Magistrate held the accused persons, namely, Amrik Singh and Harvinder Singh to be guilty and were convicted and sentenced as mentioned in para No.1, whereas accused Daler Singh was given up before learned trial Judge as per the statement of the complainant.
7. Appeal preferred by both the accused, namely Amrik Singh and Harvinder Singh, against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Karnal vide judgment dated 7.1.2019. Hence, this revision petition.

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8. Since learned counsel for the revisionists has not challenged the judgment of conviction and prayed that a lenient view on the point of sentence be taken keeping in view the age of petitioner No.1, Amrik Singh to be now 86 years and being a patient of HCV position and the injury attributed to him being on the little finger of complainant, Rishipal only and the remaining being simple injuries having been caused by petitioner No.2, Harvinder Singh.

9. Learned State counsel contended that at the trial stage, the prosecution has been able to prove the guilt of the accused including injury under Section 326 IPC against petitioner No.1. However, the period of custody was not disputed.

10. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that there is no dispute that at the trial stage, the complainant has been able to make out a case for conviction of both the accused persons *inter alia* under Section 326 IPC. The entire prosecution version is based on the statement of complainant and eye-witness account as well as medical evidence available on the file. There are no grounds to interfere with the judgment of conviction dated 9.1.2015 passed by learned trial Court and the same is upheld. As such, the present revision petition, qua judgment of conviction passed by the Courts below, stands dismissed.

11. As regard to quantum of sentence, this Court cannot ignore the fact that learned Courts below have not considered the important and relevant facts which require adequate consideration by them. Amrik Singh was of the age of 81 years at the time of commission of offence and right-now, he is around 85 years of age. The injury attributed to him is with

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sword and the seat of injury is on little finger only. By now, he has already remained in custody for 2 months and 28 days. Petitioner No.2, Harvinder Singh is attributed simply injury and has undergone substantial period as he is in custody from 7.1.2019 when his first appeal was dismissed. No purpose would be served by sending or detaining both the petitioners in custody any more. As such, the present revision petition is accepted partly and the order of sentence is modified to the extent that the sentence awarded to the petitioners stands reduced from 2 years *inter alia* under Section 326 IPC to the one already undergone by them during trial and during the pendency of this case. However, petitioner No.1, Amrik Singh shall make payment of Rs.50,000/- and petitioner No.2 shall make payment of Rs.25,000/- as compensation to the injured-complainant, within a period of one month, before learned trial Court. In case, the revisionists fail to make the aforesaid payment, they shall undergo Rigorous Imprisonment for a period of 2 (Two) months in default thereof. A copy of this order be sent to learned trial Court for compliance and for that purpose, the trial Court shall issue notice to the complainant as well.

12. Resultantly, the present revision petition stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

July 23 , 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes