

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

**CRR No.1523 of 2008 (O&M)
Date of Decision: May 08, 2019**

Gurdev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sant Pal Singh Sidhu, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr. DAG, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurdev Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 01.02.2007 passed by learned Sub Divisional Judicial Magistrate, Phul, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of one month under Section 323 IPC and to further undergo rigorous imprisonment for a period of two years and to pay fine of ₹2000/- and in default of payment, to undergo rigorous imprisonment for a period of two months under Section 324 IPC and also challenging the judgment dated 26.07.2008 passed by learned Addl.

Sessions Judge, Bathinda, vide which appeal filed by petitioner was dismissed with modification in the sentence and accused-petitioner was sentenced to undergo rigorous imprisonment for a period of six months under Section 323 IPC instead to one year and one year under Section 324 IPC instead of two years, whereas remaining part of sentence was kept intact. Both the sentences were ordered to run concurrently.

Notice of motion was issued and learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.182 dated 03.10.2002. The brief facts of the case as noted down in the judgment passed by learned SDJM, Phul, are as under:-

“2. Brief facts of this case are that complainant Gurtej Singh got recorded his statement before the police on 3.10.2002 alleging that accused and complainant were co-sharers in the land. It has further been alleged that a case was filed by the accused in the Court of Tehsildar, Phul against the complainant and his cousin which was decided in favour of the complainant and the land was demarcated. It has further been alleged that on 2.10.2002 he went to his fields for watering the fields and his daughter also accompanied him. He has further alleged that when he came to his fields at 2.30 p.m. accused having a spade was found hidden in a field of fodder. The complainant has further alleged that Gurdev Singh accused asserted that he would not spare the complainant and at this the accused struck his spade on the above side of complainant's left eye and bleeding started from that side. He has further alleged that another blow of spade was struck by accused on his forehead with the reverse side of spade and complainant fell down. It has further been alleged that while complainant was lying on the ground, accused gave another blow of spade on his backside of shoulders. It has further been alleged that the accused threw away his spade and caught hold the complainant from the neck and started drowning the complainant into the water of water course. It has further been alleged that at this stage, Harpreet Kaur daughter of complainant started raising alarm and after hearing the alarm brother of complainant namely Mukhtiar Singh and Sewak Singh came there and accused ran away. It has further been

alleged that complainant was brought to the hospital by Mukhtiar Singh after making arrangement of vehicle where he was given treatment. On the basis of these allegations the FIR was registered. The spot was inspected and site plan was prepared. Statements of witnesses were recorded. Accused was arrested on 7.10.2002. Thereafter, disclosure statement of accused was recorded who got recovered the spade. The map of spade was prepared and same was taken into police possession vide recovery memo. On completion of investigation, the challan was presented in the Court.”

Learned SDJM, Phul after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed with the modification in the sentence by learned Addl. Sessions Judge, Bathinda, vide judgment dated 26.07.2008.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is old and poor person, first offender and he is suffering from the criminal proceedings since 2002. Learned counsel for the petitioner further contended that petitioner has already undergone actual sentence of more than three months.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case, injuries attributed to the petitioner and in view of the fact that petitioner is facing long protracted criminal proceedings since 2002 i.e. for the last about seventeen years and is first offender and also in view of the

fact that petitioner is now aged more than 70 years and has already undergone imprisonment of more than three months out of the total sentence, the sentence imposed upon the present revision petitioner is modified and it is ordered that he be released on probation on furnishing probation bonds for a sum of ₹10,000/- for one year with one surety of the like amount with the condition that he will keep peace and good behaviour during the said period and will not repeat the offence. Further, the fine imposed upon the petitioner is converted to costs.

With the above-said modification in the sentence, the present revision petition stands partly allowed accordingly.

May 08, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No