

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2617-2019 (O&M)
Date of decision : 16.10.2019

Pukhraj Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Arihant Jain, Advocate for the petitioners.

ANIL KSHETARPAL, J.

Correctness of judgment passed by Chief Judicial Magistrate, Sangrur while convicting the petitioners and sentencing them in the following manner, affirmed in appeal, is being assailed. The sentence awarded is extracted as under:-

<i>Sr. No.</i>	<i>Name of the accused</i>	<i>Under Section</i>	<i>Sentence</i>
1	Pukhraj Singh	341 IPC	To undergo R.I. for 6 months
		323 IPC	To undergo R.I. for 6 months
		325 read with Section 34 IPC	To undergo R.I for 2 years and to pay fine of Rs.500/- (Rupees five hundred only). In default thereof, he will undergo rigorous imprisonment of 15 days.
		201 IPC	To undergo R.I for 1 years and to pay fine of Rs.200/- (Rupees two hundred only). In default thereof, he will undergo rigorous imprisonment of one week.
2	Ravinder Singh	341 IPC	To undergo R.I. for 6 months
		323 IPC	To undergo R.I. for 6 months

<i>Sr. No.</i>	<i>Name of the accused</i>	<i>Under Section</i>	<i>Sentence</i>
		325 read with Section 34 IPC	To undergo R.I for 2 years and to pay fine of Rs.500/- (Rupees five hundred only). In default thereof, he will undergo rigorous imprisonment of 15 days.
		201 IPC	To undergo R.I for 1 years and to pay fine of Rs.200/- (Rupees two hundred only). In default thereof, he will undergo rigorous imprisonment of one week.
3	Harjit Singh	341 IPC	To undergo R.I. for 6 months
		323 IPC	To undergo R.I. for 6 months
		325 IPC	To undergo R.I for 2 years and to pay fine of Rs.500/- (Rupees five hundred only). In default thereof, he will undergo rigorous imprisonment of 15 days.
		201 IPC	To undergo R.I for 1 years and to pay fine of Rs.200/- (Rupees two hundred only). In default thereof, he will undergo rigorous imprisonment of one week.
4	Sukhwinder Singh	341 IPC	To undergo R.I. for 6 months
		323 IPC	To undergo R.I. for 6 months
		325 read with Section 34 IPC	To undergo R.I for 2 years and to pay fine of Rs.500/- (Rupees five hundred only). In default thereof, he will undergo rigorous imprisonment of 15 days.
		201 IPC	To undergo R.I for 1 years and to pay fine of Rs.200/- (Rupees two hundred only). In default thereof, he will undergo rigorous imprisonment of one week.

As per the case of the prosecution, on 02.07.2011, first informant-injured-Gurpreet Singh got recorded his statement by stating that he had gone to meet his friend Neeraj Kalra on 02.07.2011 who was residing at Quarter No.220, Housing Board Colony, Sangrur on his motorcycle. His friend Neeraj Kalra asked him to bring milk from Nabha Gate, Sangrur whereupon when he was going on his motorcycle to bring the

milk, accused came in a Zen car and blocked his passage and thereafter attacked him. Harjit Singh, petitioner gave a iron rod blow which hit below his left knee. Sukhwinder Singh gave a blow of handle of spade which hit below his right shoulder. Ravinder Singh gave a blow of bat which hit him below his left shoulder and Pukhraj gave a blow of handle of spade which hit him on his back. Two more unknown persons also accompanied the said accused. On receipt of blows, he fell down on the ground and the accused also inflicted more injuries on his body. On alarm being raised, all the accused persons alongwith two unknown persons ran away in the car alongwith their respective weapons and his friend Neeraj Kalra reached at the spot and got him admitted in Civil Hospital, Sangrur after arranging the vehicle. The motive behind the occurrence was that there was some dispute regarding land between him and accused persons who are his maternal uncles and cousins.

After registration of the case, investigation was completed and on finding a prima facie case against the accused, charges under Sections 341, 323, 325, 201 read with Section 34 IPC were framed against the accused to which accused pleaded not guilty and claimed trial. Initially, the police had sent two accused for trial, however, on an application under Section 319 Cr.P.C., petitioner-Harjit Singh and Sukhwinder Singh were also summoned under Section 319 Cr.P.C. and charges were reframed.

Prosecution in order to prove its case, examined Gurpreet Singh-injured-first informant as PW1, Assistant Sub Inspector Jasvir Singh as PW2, Neeraj Kalra as PW3, Dr. Vivneet Singh as PW4 and Assistant Sub Inspector Balpuri (retired), Investigating Officer as PW5.

Statements of accused under Section 313 Cr.P.C. were recorded and entire incriminating evidence coming against them were put to them but they denied and stated that they are innocent.

This Court has heard learned counsel for the petitioners at length and with his able assistance gone through the judgments passed by the Courts below.

Learned counsel for the petitioners submitted that the Doctor or Technician who had conducted X-ray examination has not been examined by the prosecution. Hence, he submitted that in absence of examination of the Doctor in prosecution evidence, offence under Section 325 IPC is not proved. He further submitted that injured has admitted that he was having no enmity with the accused Sukhwinder Singh and Harjit Singh and he has not seen any weapon in the Court being produced by the police officials. He further submitted that injured has admitted that he has not seen his MLR in the judicial file. In the end, he has submitted lenient view be taken as the petitioners are first time offenders.

This Court has considered the submissions of learned counsel for the petitioners but do not find substance therein.

Dr. Vivneet Singh, who had opined that injury No.6 is grievous in nature on examination of X-ray reports, has been examined as PW4. Dr. Vivneet Singh has proved that he had examined injured on 02.07.2011 when he was posted as Medical Officer in Civil Hospital, Sangrur and found following injuries on the person of the injured which are extracted as under:-

“1. Reddish brown multiple linear in shape 15 cm x 6 cm

over right deltoid region. Advised X-ray.

2. *Swelling of 2cm x 2 cm over medial aspect of right forearm. No superficial abrasion. Advised x-ray.*
3. *Multiple bruise reddish in colour 14 cm x 6 cm in size at middle of left arm. Advised x-ray.*
4. *Diffuse swelling over posterior lateral aspect of left elbow superficial abrasion present. Fresh bleeding present. Advised x-ray.*
5. *Diffuse swelling over dorsal aspect of left hand 6 cm x 4 cm in size. Advised x-ray.*
6. *Diffuse swelling over 6 cm x 6 cm in size middle of left leg ventral surface over lying lacerated wound 1 cm x 0.5 cm in size present. Fresh bleeding from lacerated wound present. Advised x-ray.*
7. *Diffuse swelling over lateral aspect malleolus of left leg superficial abrasion present. Advised x-ray.*
8. *Multiple bruise over ventral aspect of chest. Advised x-ray.*
9. *Diffuse swelling and reddish bruise over lower blade of left scapular of 6 cm x 7 cm in size. Advised x-ray.”*

He further deposed that since injured was in great pain, therefore, he prepared a supplementary Medico Legal Report on 06.07.2011 and noted following injuries.

- “1. *Bruise over right medial malleolus blackish in colour tenderness present. Advised x-ray.*
2. *Bruise over right upper ½ of leg dorsal aspect blackish in colour. Tenderness present. Advised x-ray.*
3. *Complain of Nasal bleed. Advised x-ray and NCCT Scan.*
4. *Complaint of pain occipital region skull. Advised NCCT Scan and x-ray and Neuro surgical opinion.”*

It has also come in evidence that injury No.6 was grievous in nature. Injured remained admitted in the hospital for a period of 5 days. Apart from injuries on the shoulder, arms, legs, injured had also suffered injuries on the nose as well as on the occipital region skull. As per the case of the injured, he had suffered hairline fracture of back portion of his head. In this situation, argument of learned counsel that in absence of examination of Doctor/Technician who carried out X-ray, offence under Section 325 IPC is not proved, does not have substance particularly when the Doctor who has opined that injury No.6 is grievous has been examined.

Next argument of learned counsel for the petitioners also does not have substance as from reading of cross-examination of injured, it is apparent that a civil litigation was pending between the mother of the injured and the accused who are relatives. Therefore, motive is proved. Still further, next argument of learned counsel for the petitioners that when Gurpreet Singh was examined, he has stated that he has not seen any weapon in the Court being produced by the police officials also does not have substance, in view of the overwhelming evidence available on the file.

The jurisdiction of the Revisional Court against the judgment of conviction which has been upheld by the First Appellate Court is limited. The Court can interfere in the judgments passed by the Courts below only if the petitioners makes out a case for interference by establishing that the judgments are suffering from any material illegality or irregularity or there is some error of procedure in the conduct of the trial.

In the present case, this Court does not find that the judgments passed by the Courts below are erroneous.

Last argument of learned counsel with regard to quantum of sentence also does not have substance. The accused had given various injuries to the injured-first informant-victim which included injury on the nose and backside of the head. No doubt, Doctor's opinion with regard to injury on the nose and backside of the head has not been proved but still injury No.6 extracted above stands proved to be of grievous in nature. Injured had to remain hospitalized for a period of 5 days.

In view of the aforesaid, the sentence awarded by the Courts is neither excessive nor disproportionate. Hence, the criminal revision petition is dismissed.

16.10.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No