

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 9867 of 2018 (O&M)

Date of Decision: 14.03.2019

Jarnail Singh and Others

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Manmohan Singh Kang, Advocate
for the petitioner(s).

Mr. Ajay Pal Singh Gill, Deputy Advocate
General, Punjab for the respondent.

Shekher Dhawan, J.

Present revision petition against the judgment of conviction and order of sentence dated 13.10.2016, passed by the learned Judicial Magistrate Ist Class, Moga and the judgment dated 05.12.2018, passed by the learned Additional Sessions Judge, Moga.

Facts relevant for the purpose of decision of the revision petition that on 11.03.2011 at about 9.00 p.m., complainant-injured Nirranjan Singh was present at the house of his sister in connection with marriage ceremony of her son. He along with other family members was dancing to celebrate the function. Meanwhile, four boys reached there and started teasing the ladies of the family. Complainant asked his brother-in-law about those boys, who replied that they belong to his village and their names are

Raju, Jarnail Singh, Karnail Singh, Neetu (petitioners) before this Court and

Nirmal Singh. All of them are residents of village Rehrwan. The complainant asked them not to tease their ladies and on that, those boys left the place. After some time, they again came to the spot and attacked the complainant. One of them hit the complainant with brick on the left side of his head, whereas another accused gave stick blow to him, which hit on his head. The accused also snatched away a sum of Rs.50,000/- and one gold bracelet (*kara*) from the complainant. Thereafter, the complainant became unconscious and he was taken to the Civil Hospital, Dhudi Ke for medical treatment, from where he was referred to Civil Hospital, Moga. The matter was reported to the police and the investigation was carried out. After completion of the investigation, challan was presented in the Court.

During trial, the learned trial Judge completed various proceedings of trial including framing of charge against the accused persons, recording the statements of prosecution witnesses, statements of accused under Section 313 Cr.P.C. and in defence evidence, the accused persons tendered into evidence some documents. After considering the prosecution and defence versions, the learned trial Judge held petitioner No.1-Jarnail Singh guilty for the commission of offence under Section 325 IPC & Section 323 IPC read with Section 34 IPC, whereas other petitioners, namely Raju, Karnail Singh and Neetu were held guilty for the commission of offence under Section 323 IPC & Section 325 IPC read with Section 34 IPC, convicted them thereunder and sentenced them as under:-

S.No.	Name of accused persons	Sentenced for the offence	Sentence awarded
1.	Jarnail Singh	Section 325 IPC	To undergo imprisonment for a period of two years and to pay a fine of Rs.8,000/-, in

S.No.	Name of accused persons	Sentenced for the offence	Sentence awarded
			default whereof to further undergo rigorous imprisonment for a period of one month.
		Section 323 IPC read with Section 34 IPC	To undergo imprisonment for a period of six months.
2.	Raju, Karnail Singh and Neetu	Section 325 IPC read with Section 34 IPC	To undergo imprisonment for a period of two years each and to pay a fine of Rs.8,000/- each, in default whereof to further undergo rigorous imprisonment for a period of one month each.
		Section 323 IPC	To undergo imprisonment for a period of six months each.

All the substantive sentences were ordered to run concurrently.

The convict/accused preferred appeal before the Court of Sessions and the learned Additional Sessions Judge, while deciding the appeal, modified the order of their sentence as under:-

S.No.	Name of the appellant	Sentenced for the offence	Sentence awarded
1.	Raju	Section 325 read with Section 34 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.8,000/-, in default whereof to further undergo rigorous imprisonment for a period of one month.
		Section 323 IPC	To undergo rigorous imprisonment for a period of six months.
2.	Karnail Singh	Section 325 read with Section 34 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.8,000/-, in default whereof to further undergo rigorous imprisonment for a period of one month.
		Section 323 IPC	To undergo rigorous

S.No.	Name of the appellant	Sentenced for the offence	Sentence awarded
			imprisonment for a period of six months.
3.	Neetu	Section 325 IPC read with Section 34 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.8,000/-, in default whereof to further undergo rigorous imprisonment for a period of one month.
		Section 323 IPC	To undergo rigorous imprisonment for a period of six months.
4.	Jarnail Singh	Section 325 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.8,000/-, in default whereof to further undergo rigorous imprisonment for a period of one month.
		Section 323 IPC read with Section 34 IPC	To undergo rigorous imprisonment for a period of six months.

Being aggrieved of passing of the judgment of conviction and order of sentence dated 13.10.2016, by the learned Judicial Magistrate Ist Class, Moga and judgment dated 05.12.2018, passed by the learned Additional Sessions Judge, Moga, petitioners preferred revision petition before this Court.

Learned counsel for the petitioners contended that both the learned Courts below have not considered true facts of the case because main injury on the head of injured-complainant Niranjan Singh was attributed to Nirmal Singh, who is not an accused before the Court. Petitioners have been falsely implicated in the present case. More so, petitioners have already undergone actual sentence of three months, out of

the substantive sentence of two years rigorous imprisonment awarded upon

them. Thus, present revision petition be accepted and petitioners be ordered to be released from the custody.

Learned counsel for the respondent contended that both the learned Courts below have already considered and appreciated the entire evidence including the statement of injured-complainant Niranjana Singh, who appeared as PW.1 and eye witness-Subegh Singh, who was examined as PW.2. Both the learned Courts below have already taken a lenient view on the point of sentence and no further leniency is called for. Learned counsel for the respondent prayed for dismissal of the present revision petition.

Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that both the learned Courts below have already considered all the material facts and evidence available on the file. There is no dispute about identity of the accused persons as they are residents of the same village and they were identified on the spot. The petitioners had gone to the marriage party with an evil eye on the family members of the complainant party and when they were stopped from doing so, they had caused injuries to complainant-Niranjana Singh. The ocular testimony by way of injured-complainant, namely Niranjana Singh as PW.1 and PW.2 Subegh Singh is duly supported and corroborated by medical evidence. Both the learned Courts below have already considered the evidence available on the file minutely and held the accused persons guilty. As per testimony of PW.5-Dr. Munish Sagar, following injuries were observed on the body of injured-PW.1 Niranjana Singh:-

Sr. No.	Injuries suffered by injured-Niranjan Singh
1.	An abrasion of size 5.5 cm x 2 cm was located on the left side of forehead about 2.5 cm above the left eye brow. Below the abrasion was haematoma of size 6 cm x 4.5 cm.
2.	An abrasion of size 3.5 cm x 2.5 cm was located on the left side of left eye. Upper eyelid of left eye was turned swollen and left eyeball was turned out to be red.

The injured-complainant Niranjan Singh was also examined by PW.6-Dr. Vajinder Singh Jaswal, who conducted his CT Scan examination. PW.7 Munish Kumar identified the signatures of Dr.Rhibhu Soni on OPD card of injured-Niranjan Singh as Ex.PW.7/A. The injuries are attributed to the present petitioners and both the learned Courts below rightly observed that there are no material contradictions in the statements of these witnesses so as to disbelieve them. As such, present revision petition against the judgment of conviction and order of sentence dated 13.10.2016, passed by the learned Judicial Magistrate Ist Class, Moga and the judgment dated 05.12.2018, passed by the learned Additional Sessions Judge, Moga does not call for any interference.

As regard to order of sentence, both the learned Courts below have already taken most reasonable view on the point of sentence and no further leniency is called for in the matter.

Resultantly, present revision petition is without any merits and the same stands dismissed.

(Shekher Dhawan)
Judge

March 14, 2019
“DK”

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