

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

**CRR No.9868 of 2018 (O&M)
Decided on: 26.02.2019**

Tej Pal @ Ricky

....Petitioner

Versus

Union Territory, Chandigarh

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Abhishek Kaushik, Advocate
for Mr. D.D. Sharma, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, APP, U.T., Chandigarh.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting-aside the judgment of conviction as well as the order of sentence dated 03.03.2017 vide which the petitioner was convicted for offence punishable under Section 324 of the Indian Penal Code (in short 'IPC') and was sentenced to undergo simple imprisonment for a period of 03 months year and to pay the compensation of Rs.500/- as well as for setting-aside the order dated 03.12.2018, vide which the appeal preferred by the petitioner/appellant was upheld by the Lower Appellate Court.

Brief facts of the case are that ASI Dharam Singh received a message that one injured person was taken to GMSH-16 in PCR for treatment. Upon reaching there, the Investigating Officer ASI Dharam Singh recorded the statement of injured Shivam Gupta, who in his complaint alleged that he is working at Call Centre, Mohali and her

sister Sneha Gupta is studying at Government Model High School, Sector-37, Chandigarh. He further alleged that on 03.09.2013 his sister told him that one accused Tejpal @ Ricky is abusing her. He further alleged that on 09.09.2013, he was standing on the shop of his brother Rajat and in the meantime, one boy named Deepu took him near the Iron Grill of Janta Market Park where two boys were also standing on the said spot and out of two boys, one boy namely Tejpal @ Ricky attacked upon him with a knife at his back and he received injuries. Thereafter, the complainant made a call at 100 number and the police reached at the spot. The medical case summary of the injured person was obtained from the hospital. The seizure memo was prepared. Statements of witnesses were recorded and after completion of entire investigation, the challan against the accused was prepared and presented before the trial Court.

On presentation of the challan, charge under Section 324 IPC was framed against the accused, to which he pleaded not guilty and claimed trial.

The prosecution examined Mohini Sharma as PW1, Shivam Gupta as PW2, Rajat Gupta as PW3, Monika Vaid as PW4, HC Harparamjit Singh as PW5, C. Shankar Dass as PW6, Dr. Parijat as PW7, SI Dharam Singh as PW8, C. Paramjit Singh as PW9 and closed the evidence.

After conclusion of the evidence of the prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The

petitioner/accused denied the allegation of the prosecution and pleaded that he has been falsely implicated in the case and he also opted to lead defence evidence but could not produce the same.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, convicted and sentenced the appellant/accused under Section 324 IPC.

Feeling dissatisfied with the judgment of conviction dated and order of sentence dated 03.03.2017, the petitioner/accused has preferred an appeal before the Lower Appellate Court and the same was upheld vide order dated 03.12.2018 passed by the Additional Sessions Judge, Chandigarh. Thereafter, the petitioner has preferred a revision before this Court, in which notice of motion has been issued on 07.01.2019.

Counsel for the petitioner, at the very outset, has submitted that since out of the total sentence of 03 months awarded by the trial Court, the petitioner has already undergone 02 months and 25 days of total sentence i.e. he is short of just 05 days in completing the total sentence, do not want to address arguments on merits and also submitted that the sentence of the petitioner be reduced to the period already undergone by him.

Counsel for the petitioner, in support of his arguments, has also submitted that the petitioner is the first offender and he is not involved in any other case. It is further submitted that the petitioner is a poor person and has his own family to support and the petitioner has faced the agony of protracted trial and the Courts below have not take a lenient view considering the young age of the petitioner and has also

not granted the benefit of Probation of Offenders Act, therefore, by taking a lenient view, the sentence awarded to the petitioner be reduced to the period already undergone by him.

Counsel for the State has not disputed the fact that the petitioner has undergone 02 months and 25 days of total sentence out of 03 months simple imprisonment awarded by the trial Court.

After hearing the counsel for the parties, I uphold the judgment of conviction passed by the Courts below as the same are based on appreciation of prosecution evidence, proving guilt of the petitioner, however, considering the fact that the petitioner has faced the agony of protracted trial; the petitioner has already undergone 02 months and 25 days of total sentence; he is short of just 05 days in completing the total sentence; the petitioner is not involved in any other case which shows that he has improved his character and has joined the mainstream of the society and also in view of the fact that he is a poor person and has his own family to support, the present revision petition is ***partly allowed*** and the sentence awarded to the petitioner is reduced to the period already undergone by him i.e. 02 months and 25 days.

Disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

26.02.2019
yakub

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