

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 3173 of 2019 (O&M)
Date of Decision: 17.12.2019

Raju

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Harsh Chopra, Advocate
for the petitioner.

Mr. Sarbjit Singh Cheema, AAG, Punjab.

Mr. Vijay Lath, Advocate
for the complainant.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 17.10.2019, passed by learned Sessions Judge, Jalandhar, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 6.1.2018, passed by Judicial Magistrate Ist Class, Jalandhar in case FIR No. 35 dated 9.2.2011 under Section 323, 324, 325, 326, 452, 148, 149 IPC, registered at Basti Bawa Khel, Jalandhar, was partly allowed and he was acquitted under Sections 326, 325 read with Section 149, 452 and 148, however, his conviction and sentence under Section 323 IPC was maintained and affirmed.

The brief facts of the present case are that complainant Madhu Pandey got recorded her statement to the effect that on 4.2.2011 at about

6.30 P.M., when she was coming to her house, the accused persons who were standing in the street, confronted the complainant as to why they used to quarrel with them. In the meantime, accused Raju slapped her. Her husband Suraj Pandey came out of the house and took her inside the house. After sometime, the accused persons armed with kirpans, iron pipes and dandas entered her house by scaling the wall. Accused Deepak gave kirpan blow on the complainant which hit on the inner side of her right wrist, accused Simran gave a danda blow which hit on her left flank. When her husband Suraj Pandey came to rescue her, accused Rahul gave a kirpan blow on his head. On raising alarm by them, when their neighbour Dev Raj and mother-in-law Krishna Rani came to rescue them, accused Deepak gave a kirpan blow to Krishna Rani on her left arm. Thereafter the accused fled away from the spot with their respective weapons. The injured were got admitted in the hospital.

After completion of investigation and necessary formalities, challan was presented against the accused.

Charge was framed against the petitioner under Sections 323, 324, 325, 326, 452, 148 read with Section 149 IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as seven witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded false implication.

After going through the evidence on record the trial Court vide judgement and order dated 6.1.2018 convicted and sentenced the

petitioner as under:-

Under Section	Sentence
326/149 IPC	Rigorous imprisonment for two years and and to pay a fine of Rs. 500/- and, in default of payment of fine, to further undergo rigorous imprisonment for one week.
325/149 IPC	Rigorous imprisonment for two years and and to pay a fine of Rs. 500/- and, in default of payment of fine, to further undergo rigorous imprisonment for one week.
452 IPC	Rigorous imprisonment for two years and to pay a fine of Rs. 500/- and, in default of payment of fine, to further undergo rigorous imprisonment for one week.
323 IPC	Rigorous imprisonment for six months.
148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs. 500/- and, in default of payment of fine, to further undergo rigorous imprisonment for one week.

Against the said judgment and order, the accused preferred an appeal which was partly allowed by the Appellate Court vide judgment dated 17.10.2019 and he was acquitted of the charges framed against him under Sections 326, 325 read with Section 149, 452 and 148. However, his conviction and sentence under Section 323 IPC was maintained and affirmed.

Still aggrieved, the petitioner has preferred the present revision petition.

It has been argued by the learned counsel for the petitioner that there is no evidence on the file to prove the fault of the accused but despite this the learned trial Court has convicted and sentenced the petitioner on mere assumptions. No independent witness and the material witnesses have been examined in this case. He further submits that there is delay of 5 days

Learned counsel has further argued that evidence against the petitioner and co-accused Monika and Ram Dularey was one and the same, meaning thereby that no other evidence was available on the record so as to convict the petitioner. He further submits that there was no recovery of weapon of offence and that the present case is the counter-blast to the FIR, got registered by the accused against the complainant and injured. The complainant along with his other relatives had inflicted injuries on the person of accused-petitioner.

On the other hand, learned counsel for the complainant has made submissions in support of the judgment under appeal that there was sufficient evidence on the file to prove the guilt of the petitioner. According to the learned counsel, the prosecution has successfully proved that on the relevant date and time, the accused entered the house of the complainant and gave injuries to them.

With the able assistance of the learned counsel for the petitioner and the learned State counsel, I have gone through the judgments of the Courts below.

I do not find any substance on the submission made by the counsel for the petitioner especially when the re-appreciation of evidence cannot be allowed in the revisional proceedings. Both the Courts have recorded the finding of guilt on the basis of cogent and convincing evidence on record.

At this stage, the prayer made by the counsel for the petitioner to reduce the sentence imposed upon the petitioner to the period already undergone by him merits acceptance.

As the prayer made by the petitioner is restricted only to the

sentence, therefore, the findings recorded by the Courts below convicting the petitioner do not call for any interference and the same are accordingly affirmed.

As per the custody certificate, the petitioner has undergone 02 months and 08 days of actual sentence out of substantive sentence of six months. Taking into consideration that the FIR in the present case was registered on 9.2.2011 and petitioner has been facing the agony of trial for the last more than eight years, in my opinion, no useful purpose would be served by keeping the petitioner behind the bars to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

In view of the above, while upholding the conviction of the petitioner under Section 323 IPC, the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him

The petitioner who is in custody, be set at liberty forthwith, if not required in any other case.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

December 17, 2019

Gurpreet

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