

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

**Crl. Appeal No. S-4659-SB of 2018 (O&M)
Date of Decision: December 11, 2019**

Harwinder Kumar @ Happy

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sahil Puri, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, A.A.G, Punjab.

SURINDER GUPTA, J.(Oral)

CRM-43585-2018

Heard on the application for condonation of delay. There is delay of 108 days in filing the appeal.

Learned counsel for appellant submits that due to financial strains the appellant, who is in custody could not file appeal in time. He has not gained in any manner due to delay in filing appeal.

In view of the facts mentioned in the application and submission of learned counsel for appellant, the same is allowed. The delay of 108 days in filing the appeal is, hereby, condoned.

CRA-S-4659-SB-2018

Heard.

As per case of the prosecution, the occurrence took place on

06.09.2012, when the complainant alongwith his friend Jaskarandeep Singh was returning to village Nihalgarh in Alto Car, which was stopped by the petitioner and his co-convict Pardeep Kumar @ Bheema near school at village Bhanoki. When the complainant (Sharandeep Singh) came out, Pardeep Kumar @ Bheema gave a '*datar*' blow on his head and thereafter appellant gave a '*datar*' blow on his head, which was taken by the complainant on his hand. Both the accused repeatedly gave blows on the head, left arm, back of left ear, left palm, left wrist, left little finger and left side of his stomach. He raised hue and cry at which, both the convicts ran away from the spot.

After completion of investigation, the police presented the challan for offence punishable under Sections 307/324/323/341 read with Section 34 IPC. Learned trial Court convicted the appellant and his co-convict for offence punishable under Section 324 IPC and awarded sentence of rigorous imprisonment for 1½ years with fine of ₹3000/-.

Learned counsel for the appellant has confined his submission only for leniency in quantum of sentence awarded to the appellant. He submits that the occurrence took place on 06.09.2012. The appellant has already undergone 06 months 02 days of imprisonment as on 11.12.2019 and has also earned remission of 01 month 08 days. He is 32 years of age and has got an offer of employment abroad. He has suffered for the offence committed by him and has now to look after his family and children.

Learned State counsel submits that co-convict Pardeep Kumar @ Bheema has already undergone his sentence. The injury attributed to the appellant on hand of complainant was caused by sharp edged weapon.

Keeping in view the fact that the petitioner has undergone actual sentence of 06 months 02 days and total sentence of 07 months 10 days including remission and nature of injury attributed to him, I am of the considered opinion that the ends of justice will be fully met, if the sentence awarded to the petitioner is reduced from 18 months rigorous imprisonment to the period of sentence already undergone by him.

In view of the above, the appeal is partly accepted. Conviction of appellant as awarded by learned trial Court is maintained. The sentence awarded to the appellant is reduced from 18 months rigorous imprisonment to the period of sentence already undergone by him. However, the sentence of fine is enhanced from ₹3,000 to ₹10,000/- which will be paid to the injured/complainant. The default clause of sentence for non-payment of fine, however, shall remain intact.

Copy of this order be conveyed to the Chief Judicial Magistrate, Kapurthala and concerned Jail Superintendent.

(SURINDER GUPTA)
JUDGE

December 11, 2019
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***