

CRR-66-2020

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

CRR-66-2020 (O & M)

Date of Decision: 14.08.2020

Gurmeet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Amandeep Singh Gulati, legal aid counsel (HCLSC),
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Case is taken up for hearing through video conferencing.

Custody certificate by way of affidavit of the Deputy Superintendent, Central Jail, Bathinda, has been filed through e-mail. Print out of the same is taken on record.

Challenge in the present revision petition is to the judgment dated 11.09.2019 passed by the learned Additional Sessions Judge, Bathinda, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 09.08.2017 passed by the learned Judicial Magistrate Ist Class, Bathinda, in FIR No.11 dated 20.01.2014, under Sections 326 and 324 IPC, registered at Police Station Kotwali, has been upheld.

The petitioner was tried for committing the offences under

CRR-66-2020

petitioner was asked by the complainant not to abuse the people, he got enraged and brought a sword from his house. He gave a sword blow which fell on his palm near the thumb while trying to evade the blow. When the complainant tried to flee, his slippers got struck and he fell on the ground. The petitioner had also given another blow on the left leg of the complainant. Rajwinder Singh, nephew of the complainant, had got him hospitalized. The motive behind the occurrence was that he had requested Gurmeet Singh to refrain from abusing others. On the statement of complainant, the above noted FIR was registered.

On the basis of the evidence led, it stood proved before the learned trial Court that the petitioner had voluntarily caused grievous and simple injuries to the complainant with sharp-edged weapon. Consequently, the petitioners was convicted under Sections 326 and 324 IPC. He was, accordingly, sentenced to undergo as under:

Section	Imprisonment	Fine	In default of payment of fine
326 IPC	Rigorous imprisonment for a period of three years.	Rs.500/-	Simple imprisonment for 15 days.
324 IPC	Rigorous imprisonment for a period of one year.	-	-

Both the sentences were ordered to run concurrently.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred appeal before the learned Additional Sessions Judge, Bathinda. However, vide impugned judgment dated 11.09.2019 passed by the learned Additional Sessions Judge, Bathinda, the appeal had been dismissed, thereby affirming the judgment and order passed by the

CRR-66-2020

learned trial Court.

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

I have heard the learned counsel for the parties and gone through the record.

Both the courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Sections 326 and 324 IPC. Learned counsel for the petitioner could not point out any perversity or illegality in the findings recorded by the courts below nor could it be disputed by the learned counsel that the complainant-injured had received grievous as well as simple injuries with the sharp-edged weapon at the hands of the petitioner. Thus, in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioner under Sections 326 and 324 IPC is upheld.

Faced with this situation, learned counsel for the petitioner confines his prayer to the sentence part. He submits that the occurrence in this case took place on 20.01.2014; that the petitioner is first time offender; that he has been in custody since the date of dismissal of appeal and that by now, he has undergone the sentence of 01 year, 04 months and 25 days, including remissions, out of the total sentence of 03 years. Thus, it is prayed that the sentence imposed upon the petitioner may be reduced to the period already undergone by them. In support of his contentions, he relies upon Ram Chand Vs. State of Punjab 1989(2) R.C.R(Criminal) 221, Tara Singh Vs. State of Punjab 1994(1) R.C.R. (Criminal) 457 and Om Parkash alias

CRR-66-2020

Parkash Vs. State of Haryana 2003(3) R.C.R. (Criminal) 766.

On the other hand, the learned State counsel while opposing the prayer of the learned counsel for the petitioner, states that both the courts below have taken a very lenient view, when a sentence of three years was imposed upon the petitioner. He further states that even on the sentence count, the petitioner does not deserve any indulgence by this Court.

Keeping in view the nature of injuries and circumstances of the case coupled with the facts that the petitioner is a first offender; that his previous conviction is neither alleged nor proved by the prosecution and he has undergone the sentence of 01 year, 04 months and 25 days, including remissions, this Court is of the view that no useful purpose would be served by keeping the petitioner behind the bars. It is a fit case wherein sentence awarded to the petitioner can be reduced to the period already undergone and in lieu thereof, he can be burdened to pay more fine.

The view taken by this Court also finds support from the judgment rendered by this Court in Om Parkash alias Parkash(supra), wherein it has been held as under:

“4. Therefore, while maintaining the conviction it is ordered that the sentence already undergone would meet the ends of justice. The order imposing fine is, however, set aside for the reason that it would be in the interest of justice to award compensation to the victim in accordance with the provisions of Section 357(3)

Criminal Procedure Code, 1973 which reads as under :-

"(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of

compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced."

5. *A perusal of the above Section shows that the Court may impose a sentence, of which fine does not form a part. The Court may, when passing judgment, order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.*

6. *Therefore, with a view to award compensation, the order imposing fine is set aside so as not to form a part of sentence. The Hon'ble Supreme Court in **Hari Kishan and State of Haryana v. Sukhbir Singh & others, 1988 (2) RCR(CrL) 394 (SC) : AIR 1988 Supreme Court 2127** has held that the provision relating to awarding of compensation to victims while imposing sentence has been seldom invoked. It has been held that in addition to conviction, the Court may order the accused to pay some of the amount by way of compensation to the victim who has suffered by the act of the accused. This power is intended to do something to re-assure the victim that he or she is not forgotten in the criminal system. It is a measure of responding appropriately to crime as well as reconciling the victim with the offender."*

Accordingly, sentence awarded to the petitioner is reduced to the period already undergone. However, the fine imposed upon the petitioner under Section 326 IPC is enhanced to Rs.10,000/-. The sentence awarded by the courts below under Section 324 IPC is affirmed, whereas under Section 326 IPC, it stands affirmed with aforesaid modification. The

CRR-66-2020

enhanced fine amount shall be treated as compensation and paid to injured-complainant, Harnek Singh. The petitioner be released forthwith, if not required in any other case, but on deposit of the enhanced fine amount.

With the observations made above, the revision petition is disposed of.

14.08.2020
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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