

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

CRM-25725-2020 in/and
CRR-3168-2018 (O&M)
Date of decision: 29.10.2020

Gufran @ Gofa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Avtar Singh Khinda, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

ANIL KSHETARPAL, J. (ORAL)

CRM-25725-2020

Application is allowed.

The hearing in the main case is preponed to today and the case
is taken on Board for final disposal.

CRM-33468-2018

For the reasons stated in the application, application is allowed.

Delay of 660 days in filing the present criminal revision is
condoned.

Main case

Present criminal revision petition has been filed against the
judgment of conviction dated 30.08.2016 passed by the learned Additional

Sessions Judge, Kapurthala.

Learned counsel for the petitioner has drawn attention of the Court to the order dated 18.03.2017 passed by the Coordinate Bench in CRR-3733-2016 (Lalan Ahmad and another Vs. State of Punjab). That Criminal Revision was also filed against the same judgment dated 30.08.2016. In fact, Chief Judicial Magistrate, had convicted the petitioner and other persons vide judgment dated 01.02.2016. Even the appeal filed by the convicts was ordered to be dismissed.

The order passed by the Coordinate Bench in CRR-3733-2016 is extracted as under:-

“Prosecution story started with the allegations that on 05.10.2010, Mangal Singh was going on his motorcycle from FCI godown towards his house. At about 12.15 PM, when he reached near the house of Pappu, petitioner No.1 made a lalkara that the complainant be caught. On this, his son i.e. petitioner No.2 who was armed with kirpan gave four blows upon the complainant which did not land on the person of the complainant. Thereafter, Jaspal Singh @ Jassa (non-petitioner) inflicted kirpan blow on the left side of ear of the complainant and he fell down. Thereafter, petitioner No.2 gave kirpan blows four times on the person of the complainant, which hit on his left elbow three times and the fourth blow landed on his right arm. Later on, petitioner No.2 also inflicted kirpan blow on the left thigh of the complainant. In the meanwhile, Gurfan @ Gofa (non-petitioner) removed gold necklace from the person of the complainant. With these allegations, the FIR came to be registered.

During course of investigation, the injuries on the

person of the complainant were subjected to X-ray. As per X-ray examination, following injuries were noticed:-

- “1. X-ray skull, AP, PA and left lateral views-no fracture was seen under view.*
- 2. X-ray left mastoid region-no fracture was seen under view.*
- 3. X-ray right forearm with wrist AP and lateral views. No fracture was seen.*
- 4. X-ray right hand AP and oblique views-no fracture was seen.*
- 5. X-ray left elbow-cut is seen in the distal part of humerus.*

Thereafter, PW 8 Jabinder Pal Kaur also examined the complainant and found following injuries on the person of the complainant:-

- “1. An incised bleeding wound on the medium side of right arm measuring 6.5 cm X 0.5 cm obliquely placed about skin deep 7.5 cm above the right wrist joint.*
- 2. An incised bleeding wound measuring 6.5 cm X 0.5 cm superficial obliquely placed about 4 cm below injury No.1.*
- 3. An incised bleeding wound on the palmer side of right hand elbow the thumb measuring 5.2 cm X 0.5 cm and superficial.*
- 4. An incised bleeding wound on the lateral side of left knee joint measuring 5.5 cm X 1 cm by muscle deep. For which supplementary report sent that injury No.4 in MLR has been written on the lateral side of left knee joint should be read as left elbow joint is written by mistake.*
- 5. An incised bleeding wound on the left ear lobule part measuring 5.5 cm X 1 cm through and*

through cut. Small portion of ear lobule intact.

6. An incised bleeding wound below the injury No.5 measuring 1.5 cm X 0.5 cm behind left ear lobule oedema 3.5 cm X 2 cm on the left cheek.”

Trial Court ultimately convicted and sentenced the petitioners for the offences under 341/324/326 read with Section 34 IPC for a maximum period of three years along with fine and default clause. The conviction was upheld by the lower Appellate Court.

At the time of hearing on 07.10.2016, learned counsel for the petitioners after arguing the case for some time, confined his prayer only to the extent of reduction of sentence.

Learned counsel for the petitioners submitted that as per seat of injuries, the injury falling under the ambit of offence under Section 326 IPC was attributed to Jaspal Singh @ Jassa. Petitioner No.2 is the author of injuries on right forearm, left mostoid region, right hand and left elbow, which were not considered to be injuries falling under the mischief of Section 326 IPC.

Out of total sentence of 3 years, petitioner No.1 has already undergone 8 months, 15 days of actual sentence as on 17.03.2017 and he is not involved in any other case. Petitioner No.2 has already undergone 1 year, 7 months and 22 days as on 17.03.2017 and he is also not involved in any other case.

Keeping in view the seat of injuries and the period already undergone by the petitioners, I deem it appropriate to reduce the sentences of the petitioners for the period they have already undergone by now. They be released forthwith.”

Mr. Luvinder Sofat, AAG, Punjab, has very fairly stated that

the role attributed to the petitioner is on the lower pedestal than the petitioners in CRR-3733-2016. He submits that the injury which fall under the ambit of offence under Section 326 IPC was attributed to Jaspal Singh @ Jassa. The role attributed to the petitioner is that he snatched gold chain without causing any injury to the victim.

The petitioner has already undergone 2 years and 4 months of actual sentence approximately.

Mr. Luvinder Sofat, AAG, Punjab, on instructions from SI Varinder Singh, has informed the court that the petitioner is not involved in any other criminal case.

Keeping in view the aforesaid facts and for the reasons recorded in the judgment passed in CRR-3733-2016, even in the case of the petitioner, the order of sentence is modified while reducing the sentence to the period already undergone. If the petitioner is in custody, he be released forthwith, if not required in any other case.

Accordingly, the present criminal revision is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

29.10.2020

Pawan

(ANIL KSHETARPAL)
JUDGE

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

Whether reportable:- **Yes/No**