

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

CRR-473-2021 (O&M)

Date of decision-06.07.2021

Pardeep Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. HPS Ghuman, Advocate for the petitioner.

MANOJ BAJAJ, J.

CRM-16708-2021

Application is allowed as prayed for.

Annexures P-1 to P-3 are taken on record.

Main case

Convict-Pardeep Singh has preferred this criminal revision petition to challenge the appellate Court judgement dated 03.03.2021 passed by Sessions Judge, Fatehgarh Sahib, whereby his appeal bearing No.1/10.01.2017 against judgement of conviction dated 16.12.2016 recorded by trial Court in case FIR No.21 dated 06.05.2015 registered under Sections 324 and 354 IPC at Police Station Mulepur, District Fatehgarh Sahib was dismissed, but the order of sentence dated 16.12.2016, imposing the sentence of three years rigorous imprisonment was modified by reducing the sentence to 1 ½ years.

The petitioner faced the trial in case FIR No.21 dated 06.05.2015, lodged on the basis of statement made by Shinder Kaur (PW-3)

on 06.05.2015, who stated that Pardeep Singh, while listening music on loud voice used to hang around her house. The complainant repeatedly asked him not to do so but the accused continued with his activities. On 24.04.2015 at about 4.30 PM, once again the accused Pardeep Singh was present in the vacant plot opposite her house and did obscene act with complainant's daughter-in-law, namely, Manpreet Kaur and upon their objection, he went to his house and returned back with an axe. The accused gave axe blow on complainant's right elbow and upon hearing her screams, Manpreet Kaur got frightened and went inside house, but when people gathered at the spot, the accused ran away along with his weapon. The injured was got admitted in PHC Chanarthal Kalan by her son, namely, Hardeep Singh. After getting first aid, she was referred to Civil Hospital, Fatehgarh Sahib.

After registration of the case, the investigation was carried out and after completion of all the formalities, the accused was charge sheet by the trial Court for the offence punishable under Sections 326, 294 and 354-D IPC and the accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined in all 6 witnesses and thereafter, statement of accused was also recorded under Section 313 Cr.P.C., wherein all the incriminating material was put to him, who denied the same and pleaded innocence and stated that he was falsely implicated. However, no evidence was led by him in his defence.

The trial Court after relying upon the testimonies of PW-1 Dr.Gurnihal Singh, PW-2 Dr.Manpreet Kaur, PW-3 Shinder Kaur, PW-4 Hardeep Singh, PW-4 Inspector Karam Chand, PW-5 Manpreet Kaur and PW-6 Dr. Ankush Goyal convicted the petitioner for the offence punishable

under Section 326 IPC and sentenced him to undergo 3 years rigorous imprisonment and to pay fine of Rs.1000/- and in default of payment of fine to further undergo simple imprisonment for a period of one month.

Aggrieved against the judgement of conviction and order of sentence dated 16.12.2016 passed by the trial Court, petitioner preferred appeal bearing No.1/10.01.2017 before Sessions Judge, Fatehgarh Sahib, who affirmed the trial Court verdict and dismissed the appeal on 03.03.2021. However, the substantive sentence was reduced from three years to one year and six months.

Hence, the present revision petition.

Learned counsel for the petitioner has argued that the petitioner was falsely implicated by complainant, namely, Shinder Kaur (PW-3), who has been convicted for the offence punishable under Section 326 IPC. He submits that though the petitioner was charged for offences punishable under Sections 326, 294 and 354-D, but for the said offences, he was acquitted. According to him, the injuries suffered by the victim were not grievous in nature, therefore, his conviction for the offence punishable under Section 326 IPC is not sustainable. In support of his contention, he has drawn the attention of the Court to the testimonies of PW-1 and PW-2 and submitted that the alleged injury suffered by Shinder Kaur on her right forearm was not grievous in nature because as per medico legal report no bony crepitus was felt by the doctor, namely, Dr. Gurnihal Singh. Learned counsel submits that the impugned judgment of conviction and order of sentence passed by the Appellate Court deserves interference by this Court in revisional jurisdiction.

After hearing learned counsel for the petitioner, this Court finds that the prosecution case is mainly supported by injured Shinder Kaur (PW-3), who clearly stated that the petitioner who was armed with axe caused the said injury upon her. The said occurrence was witnessed by her daughter-in-law, Manpreet kaur and she has also supported the prosecution case. Similarly the son of the victim was also examined by prosecution to bring home the guilt of the accused. The deposition of the injured is also corroborated by the medical evidence and the deposition of Dr.Gurnihal Singh (PW-1) and Dr.Manpreet Kaur (PW-2) have established that the victim suffered fracture on her right forearm. The testimonies of PW-1 and PW-2 have gone unimpeached as no material question or suggestion was put to these witnesses during cross examination, much less regarding the nature of the injury. The argument of learned counsel that no bony crepitus was felt is completely misplaced as the said opinion was delivered by the doctor before the X-ray of the victim. The testimony of Dr. Gurnihal Singh (PW-1), who had produced the medical record before the trial Court clearly stated that after going through the X-ray, its report as well as the treatment record of the injured, he gave opinion regarding nature of injury to Inspector Karam Chand and the same was declared as grievous in nature.

The analysis of the impugned judgments passed by the trial Court as well as the appellate Court reveals that the prosecution evidence was carefully examined by the Courts and the conclusion drawn in favour of the prosecution is based upon correct appreciation of material on record. Thus, this Court is of the considered opinion that the prosecution has successfully discharged the onus to bring home the guilt of the accused and

the impugned judgment passed by the appellate Court does not suffer from any illegality or impropriety.

Resultantly, this Court does not find any reason to interfere with the impugned judgments passed by the Courts below.

At this stage, Mr. Ghuman, learned counsel craves the indulgence of the Court and prays for some more leniency by reducing the sentence. This Court does not find any merit in this prayer as the trial Court had inflicted the sentence of three years, however, the appellate Court has already shown considerable leniency to the petitioner by reducing it to one year and six months.

Dismissed.

(MANOJ BAJAJ)
JUDGE

06.07.2021

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No