

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

CRR-989-2019.
Date of Decision:-01.09.2021.

Pritam

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Surender Dhull, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

The present revision petition challenges the judgment dated 03.10.2015 and the order of sentence dated 06.10.2015 *vide* which the Juvenile Justice Board, Faridabad, had convicted the petitioner, who was a juvenile for the offences under Sections 148, 149, 323, 324, 325, 341, 326 IPC and directed him to be sent to Special Home, Ambala, for two years. Challenge is also to the judgment dated 31.08.2017 passed by the learned Sessions Judge, Faridabad, *vide* which the appeal filed against the judgment and sentence had also been dismissed.

The brief case of the prosecution is that on 27.03.2014, a telephonic call was received at the Police Station Balabhgarh that one

Dharmender, son of Hoshiar Singh was admitted in the General Hospital after sustaining injuries in a fight. The police officials reached the hospital from where it was learnt that he had been referred to B.K. Hospital, Faridabad and on inquiry, it was found that he had been admitted in Park Hospital, Sector 10, Faridabad. The patient was declared fit to give a statement. On 29.03.2014, his statement was recorded to the effect that on 26.03.2014, he received a phone call on his mobile number in which the caller was wandering to purchase a plot and the said caller asked him to come to tubewell No.4 on bye-pass road and enquired about the clothes that he was wearing and the vehicle he was driving. The said Dharmender gave the details about his identity, the clothes that he was wearing and the motorcycle he would be riding. At about 5.00 p.m., when he reached near the under-construction flats in Sector 65, then 8-9 boys came on 3-4 motorcycles and blocked his way. The said persons were armed with knives and *dandas* and had muffled faces. One of the persons inflicted a knife injury upon his right thigh and the other person also inflicted injuries on the person of Dharmender. The prosecution case further was that all the assailants fled away and the said Dharmender lost Rs.4,900/- in the said fight. The case was registered and after receiving the doctors' opinion, charge under Section 325 and 326 IPC was added on 04.04.2014. A supplementary statement dated 26.04.2014 was recorded in which Dharmender specifically named the present petitioner Pritam along with other persons. The petitioner, along with the said persons, were arrested on 28.04.2014 and the petitioner along with one Ankit was found to be

juvenile. A knife and a motorcycle were recovered from the the petitioner. A *prima facie* case for commission of the offences punishable under Sections 148, 149, 323, 324, 325, 326 and 341 IPC and Section 25 of Arms Act, 1959 was made out against the juvenile and a notice of accusation was served upon them vide order dated 16.08.2014.

In order to prove their case, the prosecution had examined the following witnesses:-

PW1-Dr. R.S. Gaur

PW2-Dr. Vishnu Sharma

PW3-ASI Bansi Lal

PW4-Ct. Sushil Kumar

PW5 ASI Bheem Singh

PW6-Dr. Vijay

PW7-ASI Lajpat

PW8-Ct. Devender Singh

PW9 Dr. Swatanter Mishra

PW10-Dahrmender

PW11-HC Sarjit

PW1 had stated that he was an Orthopedic Surgeon and a Medical Board comprising of himself and Dr. Vivek Girotra was constituted and he had proved report Ex. PW1/A and the injury to Dharmender in the right thigh was held to be grievous in nature and the injuries in upper side thigh to be simple in nature. PW2 Dr. Vishnu Sharma proved the report Ex. PW2/A as well as X-Ray reports Ex. PW2/B to PW2/G. PW3 ASI Bansi Lal

who had registered the FIR, proved his endorsement Ex. PW3/A. PW4 Constable Sushil Kumar had stated that he had taken the petitioner to village Muchgarh, who in pursuance of his disclosure statement got a knife and a motorcycle recovered. PW5 ASI Bheem Singh deposed about the case property. PW6 Dr. Vijay and PW9 Dr. Mishra also proved the MLR and the medical record of the injured and also the opinion PW-9/D respectively, whereby, it was recorded that injury Nos.2 and 3 were grievous in nature. PW-7 ASI Lajpat was the Investigating Officer and proved the entire investigation. PW-10 Dharmender was the injured and he identified the present petitioner Pritam to be one of the assailants. The Principal Magistrate, after considering the entire evidence and the documents on record, convicted the present petitioner Pritam for involvement in the offences under Sections 148, 149, 323, 324, 325, 341, 326 IPC. However, the juvenile Ankit was acquitted. Vide order dated 06.10.2015, the Principal Magistrate directed the petitioner to be sent to Special Home, Ambala, for 02 years for involvement in offences punishable under Sections 148, 149, 323, 324, 325, 341, 326 IPC.

Aggrieved against the said judgment and sentence, the present petitioner filed an appeal in the Court of Additional Sessions Judge, Faridabad. The Additional Sessions Judge, Faridabad, after reappraising the entire evidence on record and also considering the documents, upheld the judgment holding the present petitioner guilty as well as the sentence awarded to the petitioner. Aggrieved against the above said judgments and order of conviction, the present revision petition has been filed. During the

course of arguments, learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner but would be satisfied if a lenient view is taken with respect to the sentence which has been awarded to the petitioner. In this regard, it has been submitted that the incident in question is of the year 2014 and the petitioner has suffered the agony of trial/appeal/revision for all these years. It is submitted that the petitioner was a juvenile at the time of the incident and even now is a young boy of 26 years of age and his future would be seriously prejudiced in case the sentence awarded to the petitioner is not reduced. Learned counsel for the petitioner submits that the petitioner wishes to focus on doing some work in future and has also stated that he has undergone a total sentence of 01 year, 02 months and 09 days out of the total sentence of 02 years.

In support of his arguments, learned counsel for the petitioner has relied upon decision of this Court in **CRR-1244-2013** decided on 14.01.2019 titled **“Anju @ Naresh and another Vs. State of Haryana”** as well as the judgment of this Court dated 08.03.2010 passed in **CRR-1859-2008** titled **“Gaya Prashad Vs. State of Haryana”**, while praying for reduction of sentence to the period already undergone.

Learned State counsel has submitted that the judgments of the Courts below are well reasoned and, thus, the present revision deserves to be dismissed. It has also been stated that the petitioner is involved in other cases also.

This Court has heard the learned counsel for the parties and perused the record.

As far as the conviction of the present petitioner under Sections 148, 149, 323, 324, 325, 341, 326 IPC is concerned, this Court is of the view that both the Courts have considered the entire evidence and record in detail and have rightly come to the conclusion that it was the petitioner who was involved in the incident. The medical evidence produced by PW-1, PW2, PW-6 and PW9 fully proves that injuries were suffered by Dharmender. The said Dharmender has himself appeared in the witness box as PW10 and supported the case of the prosecution as far as the role of Pritam (present petitioner) is concerned. The Investigating Officer-PW7 has duly proved that investigation was carried out in a fair manner. Nothing has come out from the cross-examination of the said witnesses so as to demolish the case of the prosecution. Moreover, the learned counsel for the petitioner has also not challenged the finding of the learned trial Court and the Appellate Court with respect to the conviction of the present petitioner. Thus, the conviction of the petitioner is upheld.

As far as the sentence which has been awarded to the petitioner is concerned, this Court is of the view that since the incident is of the year 2014 and the petitioner was a juvenile at the time of the incident and is now a young boy of 26 years, who now wants to put his energy in the right direction and wishes to become an asset for his family and since he has already undergone a total sentence of 01 year, 02 months and 09 days out of 02 years, thus, it is ordered that the sentence awarded to the petitioner is reduced to the period already undergone by him.

With the above observations, the present criminal revision

petition stands disposed of.

Since the main case has been disposed of, the pending criminal miscellaneous application(s), if any, shall also stand disposed of.

(VIKAS BAHL)
JUDGE

September 01, 2021.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.