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

CRR-217-2022 (O&M)
Date of decision : 04.02.2022

Gurpreet Singh @ Motu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Navinder Jit Singh Dandiwal, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-3425-2022

Application is allowed, as prayed for.

CRM-3424-2022

This is an application filed under Section 5 of the Limitation Act read with Section 482 of Cr.P.C. for condonation of delay of 40 days in filing the present Criminal Revision.

For the reasons stated in the application, delay of 40 days in filing the present Criminal Revision is condoned.

Application is allowed.

Main case

Challenge in the present Criminal revision is to the judgment and order of sentence dated 05.07.2018 passed by the Sub Divisional Judicial Magistrate, Nihal Singh Wala, vide which the petitioner alongwith co-accused Maninder Singh @ Monu has been convicted and sentenced as follows:-

“

<i>Name of convict</i>	<i>Offence</i>	<i>Imprisonment</i>	<i>Fine</i>	<i>In default of payment of fine</i>
Maninder Singh @ Monu	U/s 326 IPC	Two years RI	Rs.1,000/-	Thirty days RI
	U/s 324 IPC	One year RI	Rs.500/-	Fifteen days RI
	U/s 323 IPC	Six months RI	---	----
Gurpreet Singh @ Motu	U/s 326 IPC r/w S. 34 of IPC	Two years RI	Rs.1000/-	Thirty days RI
	U/s 324 IPC r/w S.34 of IPC	One year RI	Rs.500/-	Fifteen days RI
	U/s 323 IPC r/w S.34 of IPC	Six months RI	---	----

59. *All the sentences shall run concurrently.*”

Challenge has also been made to the judgment dated 06.11.2019 passed by the Additional Sessions Judge, Moga, vide which the appeal preferred by the petitioner against the abovesaid judgment and order of sentence dated 05.07.2018 had been dismissed.

FIR in the present case has been registered on the basis of statement of complainant/injured Jagjit Singh who had stated that on 10.10.2015 at about 9:15 pm, when he was returning from walk and had reached near the fields of Jaskaran son of Sohan Singh, when three persons came there on Platina motorcycle and had made enquiries from the present complainant about a petrol pump and thereafter, the said persons attacked the complainant and inflicted injuries on the complainant and thereafter, ran

away with their respective weapons. After registration of the FIR against unknown persons, during investigation, it was found that injury No.2 was declared as grievous in nature and accordingly, Section 326 of IPC was added and thereafter Shinderpal Singh @ Shinder and Maninder Singh @ Monu were arrested and on their interrogation, the present petitioner was also nominated as an accused and on 13.01.2016, the petitioner was arrested and the baseball bat was recovered from the present petitioner and after completion of the investigation, challan was presented against the present petitioner and two other accused. The said Shinderpal Singh @ Shinder was declared as proclaimed person. The charges were framed against the petitioner and Maninder Singh @ Monu.

The prosecution had examined seven witnesses in order to prove its case, which are detailed hereasunder:-

1. PW-1 Dr.Ajwinder Singh;
2. PW-2 Dr.Rohit Jindal;
3. PW-3 HC Jagsir Singh (Investigating Officer);
4. PW-4 Jagjit Singh (Injured/Complainant);
5. PW-5 Sukhdev Singh;
6. PW-6 Jatinder Singh (Junior Assistant) and
7. PW-7 HC Sumit Kumar

PW4-Jagjit Singh injured/complainant had been examined and he had fully supported the case of the prosecution.

PW3-Head Constable Jagsir Singh, who was the Investigating Officer of the case, had proved on record Arrest Memo Ex.P16 of the present petitioner and also recovery of the baseball bat vide memo as

Ex.P18. It was further stated by the said PW3 that PW4-complainant had identified the present petitioner as one of the accused person and regarding the same, had produced on record memo Ex.P22.

PW1-Dr. Ajwinder Singh had proved on record the medico legal report, as per which, seven injuries were caused to the injured/complainant.

The other witnesses also had fully supported the case of the prosecution.

After considering the entire evidence as well as documents on record, the Sub Divisional Judicial Magistrate, Nihal Singh Wala vide judgment and order of sentence dated 05.10.2018, had convicted the petitioner alongwith Maninder Singh @ Monu and sentenced them to imprisonment as has been detailed hereinabove.

The petitioner had filed an appeal before the Additional Sessions Judge, Moga, against the abovesaid judgment and order of sentence dated 05.10.2018 who, after reconsidering the entire evidence and material on record, dismissed the appeal.

It is against the abovesaid judgment, that the present Criminal Revision 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 2015 and the petitioner has suffered the agony of trial/appeal/revision for all these years.

It is submitted that the petitioner is a young boy of 32 years of age and his future would be seriously prejudiced in case the sentence awarded to the petitioner is not reduced. It is further submitted that the petitioner is the sole bread earner of his family and has already undergone actual custody of 9 months and 13 days and also has earned remission of one month and has thus, undergone total sentence including remission of 10 months and 13 days, out of the maximum sentence of two years rigorous imprisonment. It is further submitted that the petitioner is not involved in any other case.

In support of his arguments, learned counsel for the petitioner has relied upon decision of Coordinate Benches of this Court in **CRR-1244-2013 decided on 14.01.2019 titled “Anju @ Naresh and another Vs. State of Haryana”** and **CRR-1859- 2008 titled “Gaya Prashad Vs. State of Haryana, dated 08.03.2010”**, 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 Criminal Revision deserves to be dismissed.

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

As far as conviction of the petitioner under Sections 326 read with Section 34 of IPC, 324 read with Section 34 of IPC and 323 read with Section 34 of IPC is concerned, both the Courts below have considered the entire evidence on record and have rightly come to the conclusion that the petitioner alongwith co-accused had inflicted injuries upon the injured/complainant. PW4 Jagjit Singh, who was the injured/complainant,

had fully proved the case of the prosecution and allegations in the challan. PW3 Head Constable Jagsir Singh, who was the Investigating Officer of the case, had deposed that the said PW4-complainant Jagjit Singh had identified the present petitioner and the other accused as the persons who had assaulted him and had produced on record memo Ex.P22 regarding the same. The said PW3 had also proved on record recovery memo Ex.P18 vide which the baseball bat was recovered from the petitioner and also the arrest memo of the present petitioner which had been duly proved as Ex.P16. PW1-Dr. Ajwinder Singh, had proved on record the injuries which were suffered by the injured and the same were seven in number and had also duly proved on record the MLR as Ex.P1 and pictorial diagram showing the seats of the injuries as Ex.P2. Other witnesses have also supported the case of the prosecution but nothing had come out in the cross-examination so as to cause a dent in the case of the prosecution. 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 2015 and the petitioner is a young boy of 32 years, who now wishes to put his energy in the right direction and aims to become an asset for his family and since he has already undergone actual custody of 9 months and 13 days and has also earned remission of one month and thus, has undergone total sentence including remission of 10 months, 13 days, out of the maximum sentence of two years rigorous imprisonment and since he is not involved in any other case, thus, it is ordered that the sentence awarded to the petitioner is reduced to the period already undergone by him. The same is however,

subject to the petitioner paying an amount of Rs.50,000/- as compensation in favour of the complainant/injured namely Jagjit Singh within a period of one month from today.

It is stated that fine of Rs.1500/- has already been paid by the petitioner. The said amount of Rs.50,000/- would be over and above the fine which is stated to have been deposited by the petitioner. The said amount of Rs.50,000/- would be deposited by the petitioner within a period of one month from today before the concerned trial Court. After the amount of Rs.50,000/- deposited by the petitioner, the concerned trial Court is directed to issue notice to the injured/complainant Jagjit Singh and get the payment of Rs.50,000/- released to the said Jagjit Singh.

It is made clear that in case, the said amount of Rs.50,000/- is not deposited within a period of one month from today before the concerned trial Court, then the present Criminal Revision would be deemed to have been dismissed.

The present Criminal Revision is disposed of, accordingly.

Since, the main case has been decided, application bearing CRM-3426-2022 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid order.

04.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No