

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-1183-2016

Date of Decision: 29.10.2022

Sukhwinder Singh @ Soni

... Petitioner

VS.

Ranjit Singh @ Tinku & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. BD Sharma, Advocate for the petitioner

Mr. Rishu Mahajan, Advocate for respondent No.1

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J. (Oral)

(1) This criminal revision petition has been preferred by the petitioner against the judgment dated 06.01.2016 passed by learned Sessions Judge, Amritsar whereby the appeal filed by respondent No.1 has been accepted by modifying the judgment dated 24.05.2014 passed by Id. JMJC, Amritsar holding the respondent No.1 guilty of offence punishable under Section 323 IPC instead of Section 325 IPC and ordering him to be released on probation, in case FIR No.219 dated 02.10.2010 under Sections 325 IPC, registered at Police Station "A" Divn., Amritsar.

(2) Shorn of details, the facts of the case are that this case was registered on the statement of Sukhwinder Singh alias Soni son of Shri Swaran Singh, Jat, resident of Backside Gurdwara Nanaksar, Verka Amritsar, stating that he used to ply auto rickshaw. He used to get gas cylinder filled from Majitha Gas Agency, situated near Railway Crossing and for getting the gas cylinder booked, consumers were to stand in queue. On 18.9.2010 at about 7/7.30a.m, he had sent his younger brother namely Harjinder Singh, for getting the gas cylinder booked and he (complainant) himself took cylinder

there. It was about 9/9.30am, Kalsi Club Wala son of Shri Billa,a resident from his locality, who was carrying various consumer books, stood ahead of his brother Harjinder Singh in the queue. His brother requested him to get the cylinder booked as per his turn, but, Kalsi started misbehaving him and then they both grappled with each other. He and other persons standing there, intervened. Thereafter, Kalsi went away. After about ten minutes, while he (complainant) was standing in queue, Kalsi armed with iron rod came there and gave a rod blow, hitting his hip joint of left leg, due to which, he fell down. Kalsi fled away from the spot along with his weapon. His brother arranged vehicle and took him to the doctor for treatment. Doctor got his x-ray conducted and leg was found fractured. Respectables tried to patch up the matter, but it was not materialized. After registration of formal FIR, investigation was started. Accused was arrested. Statements of witnesses were recorded.

(3) Learned counsel for the petitioner contended that the judgment of the learned trial court is based on facts and law and after examining the prosecution evidence, it has rightly come to the conclusion that respondent No.1 caused grievous injury with iron rod on the person of the petitioner which stands proved on record by examination of Dr. Vijay Sroa as PW3, who deposed that the x-ray and operation notes, the nature of injuries on the person of the petitioner was grievous with blunt weapon.

(4) Learned counsel for the petitioner vehemently urged that the learned appellate court was erred in not appreciating the fact that the petitioner/injured was medico-legally examined by Dr. Vijay Sroa and thereafter he was referred to radiologist to undergo x-ray examination and the report of the PW3 is based upon the x-ray film.

(5) I have heard learned counsel for the petitioner and gone through the record.

(6) The accusation against accused is that on 18.9.2010, at about 9/9.30am, in the area of Majitha Gas Agency, Near Railway Crossing, Verka, accused voluntarily caused grievous hurt to Sukhwinder Singh, petitioner/injured by iron rod.

(7) Learned appellate court rightly opined that the doctor who conducted x-ray examination of injured/complainant, was not examined in this case and the doctor, who declared the injury i.e PW3 Dr.Vijay Sora, as grievous had not conducted x-ray examination. Admittedly, when he examined the injured, he had not observed any external visibility of wound/injury. It was rightly observed the best witness available with the prosecution to prove the nature of injury as grievous, was the doctor who had conducted x-ray, but he was not examined by the prosecution. So, in the absence of testimony of Radiologist, who conducted x-ray of injured, the injury so suffered by accused cannot be said to be grievous in nature, especially when the doctor who declared such injury being grievous had not conducted x-ray examination of injured and it was held that simple injury was caused by the respondent No.1 in the occurrence to the petitioner, which falls within the ambit of section 323 IPC.

(8) Accordingly, this Court does not find any valid ground to set aside the judgment passed by the learned appellate court.

(9) Dismissed.

29.10.2022

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No