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

CRR No. 1767 of 2016
Date of Decision:- 23.09.2022

Gurpreet Singh

... Petitioner

Versus

Balraj Singh & Ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by :- Mr. G.S. Saini, Advocate
for the petitioner.

None for respondents No.1 to 3.

KARAMJIT SINGH, J.

The present revision petition has been filed by the petitioner against the judgment dated 14.03.2016 passed by the Court of learned Additional Sessions Judge, Faridkot, confirming and upholding the judgment and order dated 11.09.2014 passed by the Court of learned Judicial Magistrate 1st Class, Faridkot, whereby respondent No.2 Sukhjinder Kaur was acquitted while respondent No.1 Balraj Singh and respondent No.3 Yadvinder Singh were convicted under Section 323 IPC and released on probation.

The brief facts of the case are that FIR No.31 dated 14.03.2010 was registered under Section 323, 324 read with Section 34 IPC at Police Station Sadar Faridkot, on the basis of statement of complainant Gurpreet

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Singh wherein he stated that on 13.03.2010 he had gone to his fields and at about 4.00 PM, he saw that respondent No.1 Balraj Singh armed with gandasas, respondent No.2 Sukhjinder Kaur armed with gandasas, Teja Singh (juvenile) armed with wooden stick and respondent No.3 Yadwinder Singh were standing outside their house and dismantling the khaal (water channel) and when the complainant refrained them from doing so, Sukhjinder Kaur attacked him and gave gandasas blow on the left side of forehead of complainant, while Balraj Singh raised lalkara and asked his son Yadvinder Singh to bring rifle from his house. In the meantime, said Balraj Singh gave blow with reverse side of gandasas which hit on the left arm of complainant. Teja Singh gave stick blows which hit on the right side of waist and left leg of complainant. On hearing the hue and cry raised by the complainant, Jasvir Singh neighbor of Balraj Singh came out along with Pritam Singh and both of them rescued the complainant and they also caught hold of rifle from the hands of Yadwinder Singh, who reached there armed with rifle. Thereafter, the complainant was taken to GGS Medical College and Hospital, Faridkot for his treatment. The motive behind the occurrence was that Balraj Singh felt offended when the complainant stopped him from dismantling khaal (water channel).

During investigation the police inspected the place of occurrence and the accused were arrested and finally the challan was presented against juvenile offender in the court of Principal Magistrate Juvenile Justice Board while the challan against respondent Nos.1 to 3 was filed in the Court of Illaqa Magistrate.

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The trial Court framed charges under Section 323, 324 read with Section 34 IPC against respondents No.1 to 3, to which they pleaded not guilty and claimed trial.

In order to prove its case the prosecution examined PW1 complainant Gurpreet Singh, PW2 Jasvir Singh (eye-witness), PW3 Pritam Singh (eye-witness), PW4 ASI Jarnail Singh, PW5 Dr. Anmol Grover, PW6 Dr. Shilekh Mittal and PW7 ASI Sukhdev Singh.

Thereafter, respondents No.1 to 3 were examined under Section 313 Cr.P.C and the entire incriminating evidence was put to them but they denied the same and pleaded innocence. However, they had not lead any evidence in their defence.

After hearing the learned APP for the State and the defence counsel, the trial Court acquitted respondent No.2 Sukhjinder Kaur but convicted Balraj Singh and Yadwinder Singh under Section 323 IPC and granted them concession of probation with an undertaking to keep peace and be of good behavior for a period of one year and further burdened them with litigation cost of Rs.1,000/- each. The respondents complied with the said order dated 11.09.2014.

Being not satisfied, complainant Gurpreet Singh filed an appeal against the aforesaid judgment and order of the trial Court dated 11.09.2014. The said appeal was dismissed by the learned Additional Sessions Judge, Faridkot vide judgment dated 14.03.2016, after hearing both the parties.

Being dis-satisfied, petitioner-complainant Gurpreet Singh has filed the present revision petition alleging that respondent No.2 Sukhjinder

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Kaur was wrongly acquitted by the Courts below and further to sentence respondents No.1 to 3 in accordance with law.

On notice of motion, none has put in appearance on behalf of respondents No.1 to 3.

I have heard the counsel for the petitioner and the State counsel.

The counsel for the petitioner has submitted that the Trial Court wrongly acquitted respondent No.2 Sukhjinder Kaur, despite the fact that enough evidence is available on record to prove that she was present at the spot and caused injury on the forehead of the petitioner with gandasa and thus, committed an offence punishable under Section 324 IPC. The counsel for the petitioner further submitted that in the facts and circumstances of the case, as the respondents were armed with deadly weapons and they assaulted the petitioner, they are not entitled to get concession of probation and should have been sentenced to imprisonment under Sections 324 and 323 IPC. The counsel for the petitioner further submitted that the impugned judgments passed by the Courts below being illegal and perverse are liable to be set aside.

The State counsel has pleaded no objection if the present revision petition is allowed and the respondents No.1 to 3 are sentenced to imprisonment as per law.

I have considered the submissions made by the counsel for the petitioner.

FIR in this case was registered against respondents No.1 to 3 and Teja Singh (juvenile offender) under Sections 323, 324 read with Section 34 IPC. After completion of investigation, challan was also

presented against respondents No.1 to 3 under Sections 323, 324 read with Section 34 IPC. During trial the complainant appeared in the witness box as PW1 and also examined two eye witnesses namely PW2 Jasvir Singh and PW3 Pritam Singh to prove the ocular version, as has been narrated in the FIR.

From the perusal of the record of the trial Court, it appears that the complainant did not state anything incriminating against respondent No.2-Sukhjinder Kaur in his testimony. Even PW2 Jasvir Singh also had not named respondent No.2-Sukhjinder Kaur in his examination-in-chief, while PW3 Pritam Singh stated that said Sukhjinder Kaur was present at the spot but was armed with wooden stick. In view of the aforesaid contradictions being there in the testimonies of the complainant and two eye-witnesses, the trial Court rightly acquitted respondent No.2-Sukhjinder Kaur by giving her a benefit of doubt. Even the Appellate Court also rightly upheld the acquittal of respondent No.2-Sukhjinder Kaur.

The complainant while appearing in the witness box as PW1 deposed that respondent No.1-Balraj Singh and respondent No.3-Yadwinder Singh caused injuries to him with blunt weapons. The testimony of the complainant to this effect was fully corroborated by PW2 Jasvir Singh and PW3 Pritam Singh, both of whom witnessed the occurrence. Further, the aforesaid ocular version given by PW1, PW2 and PW3 was fully corroborated by the medical evidence in the shape of the statements of PW5 Dr. Anmol Grover and PW6 Dr. Shilekh Mittal. As per the medical evidence aforesaid injuries caused to complainant Gurpreet Singh by respondent No.1 and respondent No.3 were found to be simple in nature. So the trial Court

rightly convicted respondent No.1 Balraj Singh and respondent No.3 Yadwinder Singh under Section 323 IPC. The said finding of the trial Court was upheld by the appellate Court after proper appraisal of the evidence led by the prosecution.

The petitioner has also laid challenge to the order dated 11.09.2014 passed by the trial Court whereby respondent No.1 Balraj Singh and respondent No.3 Yadwinder Singh were given benefit of probation, as well as the judgment passed by the Appellate Court dated 14.03.2016 whereby the said order of probation was upheld.

The object of criminal law is more inclined towards the reformation of the offenders. The suspension of sentence in such like cases serves the dual purpose of deterrence and reformation. The aim of Section 360 Cr.P.C. and Sections 3 and 4 of Probation of Offenders Act is to prevent offenders like respondents No.1 and 3 from being committed to jail, where they may associate with hardened criminals, who may lead them further to the path of crime.

In the instant case, the Trial Court while granting a concession of probation to respondents No.1 and 3 took into consideration the facts and circumstances of the case and the gravity of the offence committed by them and their antecedents. The trial Court also burdened respondent No.1 and 3 with costs of Rs.1000/- each, which has already been paid. Counsel for the petitioner has failed to show that during the period of probation of one year, respondents No.1 and 3, misused the said concession or committed breach of terms and conditions of probation bonds furnished by them by repeating

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offence of similar nature. Also there is nothing on record to establish that respondents No.1 and 3 were previous convicts.

In the light of above, this Court is of the view that counsel for the petitioner has failed to point out any perversity or illegality in the impugned judgments/order.

Consequently, the present revision petition is hereby dismissed being devoid of merits.

23.09.2022
Jiten/Gaurav Sorot/P.Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No