

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1050 of 2011
Date of Decision: April 17, 2023

Krishan @ Balli

State of Haryana

Versus

...Petitioner

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Sagar Aggarwal, Advocate for the petitioner.
Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

This revision is directed against the concurrent finding of conviction.

2. Petitioner faced trial in a case arising out of FIR No.231 dated 30.11.2001 registered at Police Station Pundri, District Kaithal under Sections 323, 324, 325 and 326 IPC, on the allegations that on 28.11.2001, he caused injuries with a drant on various parts of the body of his co-villager Prem. After trial, he was convicted under Sections 323, 324 and 326 IPC by learned Judicial Magistrate Ist Class, Kaithal vide judgment dated 09.02.2010 and vide a separate order dated 10.02.2010, was sentenced as under: -

Offence	Sentence	Fine	Default Sentence
323 IPC	RI for 06 months		
324 IPC	RI for 01 year		
326 IPC	RI for 03 years	₹250/-	RI for 15 days

All the sentences were directed to run concurrently.

3. Appeal preferred by the petitioner was dismissed by learned Additional Sessions Judge, Kaithal, on 26.04.2011.

4. Although the revision has been filed challenging the conviction as well as order of sentence but before this Court, learned counsel for the petitioner has confined his arguments only regarding the quantum of sentence, submitting that the petitioner does not press the revision against conviction. It is argued by learned counsel that occurrence took place way back in November, 2001 and that we are now in the year 2023 and, thus a period of more than 21 years has lapsed. Petitioner as well as injured are co-villagers. Petitioner has earlier remained in custody for a period of more than four months and that the petitioner was released on bail by this Court in 2011 and that sending him behind bars after such a long time is likely to vitiate the atmosphere in the village. Learned counsel has prayed to reduce the sentence for the period already undergone by the petitioner.

5. Learned State Counsel has opposed the plea to reduce the sentence for the period already undergone by the petitioner by pointing out that as many as 11 injuries were caused on the person of complainant – Prem out of which 10 injuries were caused by sharp-edged weapon. It is submitted that though petitioner faced agony of trial for a long time but the complainant also waited for justice and so, there is no justification to reduce the sentence.

6. I have considered submissions of both the sides and perused the record.

7. Record reveals that though as many as 11 injuries were found on the person of injured - complainant Prem, out of which 10 were by sharp edged weapon but on X-ray examination, the grievous injury was found only on the right wrist i.e., non-vital part of the body. Rest of the injuries were found to be simple.

8. In *George Pon Paul Vs. Kanagalet and others, 2009(3) R.C.R. (Criminal) 146*, accused was convicted under Section 326 IPC and was sentenced till rising of the Court. Trial in the case had commenced in the year 1993. In these circumstances, it was held by Hon'ble Supreme Court that due to long passage of time, it would be appropriate to restrict the period of sentence to the period already undergone.

9. In *Nirmal Singh Vs. State of Punjab, 2005(1) R.C.R. (Criminal) 477*, conviction was recorded under Section 326 IPC. Incident was 17 years old. Sentence was reduced to already undergone (one month) though accused was directed to pay compensation of ₹10,000/- to the complainant, by this High Court. This High Court had relied upon *Tarak Nath Singh and another Vs. State of West Bengal, 1998(1) Supreme Court Cases (Criminal) 587*, wherein the occurrence had taken place 18 years prior to decision of the appeal. Parties were relatives and so, sentence was reduced to the period already undergone.

10. In similar facts and circumstances, same view has been taken by this High Court in *State of Punjab Vs. Gurmail Singh, 2002(2) RCR (Criminal) 600*, *Bahali Ram and others Vs. State of Punjab, 2008(4) AICLR 602*, *Suresh Kumar and others Vs. State of Haryana, 2006(2) R.C.R. (Criminal) 624*, *Jaibir Singh Vs. State of Haryana, 2007(3) R.C.R. (Criminal) 504*, *Swinder Singh and another Vs. State of Punjab, 2007(3) R.C.R. (Criminal) 581*, in all of which, conviction was recorded under Section 326 IPC but due to long lapse of time from the date of incident and the date of decision of the appeal, the sentence was reduced to the already undergone.

11. Having regard to all the aforesaid facts and circumstances of

the case and considering the view taken by Hon'ble the Supreme Court as well as this High Court in various cases (*cited supra*), I consider it appropriate to reduce the sentence of the petitioner to the already undergone by him. However, petitioner is directed to pay compensation of ₹20,000/- to the complainant Prem. Requisite amount is directed to be deposited in the trial Court within a period of one month from the date of receipt of copy of this order, failing which this revision petition shall be deemed to have been dismissed. On deposit of the said compensation amount, trial Court is directed to disburse the same to the complainant Prem forthwith.

Disposed of accordingly.

April 17, 2023

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No