

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237 CRR 995 of 2010
Date of Decision: 01.08.2023

Gurdass Singh ...Petitioner
Vs.
State of Haryana ...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Gaurav Jain, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition against the impugned judgment dated 09.03.2010 passed by the Court of Mr. R.K. Yadav, Additional Sessions Judge, Fatehabad, whereby, the appellate Court upheld the judgment and order dated 10.03.2008 passed by the Judicial Magistrate 1st Class, Tohana, whereby the petitioner was convicted for commission of the offence punishable under Sections 452, 323, 324 and 326 IPC and was sentenced as under:-

Under Section 452 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/-. In case of default in payment of fine the accused shall further undergo rigorous imprisonment for a period of one month.
Under Section 323 IPC	Rigorous imprisonment for a period of six

	months.
Under Section 324 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/-. In case of default in payment of fine the accused shall further undergo rigorous imprisonment for a period of one month.
Under Section 326 IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs. 2000/-. In case of default in payment of fine the accused shall further undergo rigorous imprisonment for a period of three months.

2. At the very outset, learned counsel for the petitioner contends that he does not wish to challenge the impugned judgment of conviction, however, this Court may take lenient view, while awarding the sentence to the present petitioner. Even though, the petitioner has not challenged the conviction by the trial Court as well as by the appellate Court, still, this Court has examined the revision petition on merits.

3. Sans unnecessary details, as per the case of the prosecution on 30.01.1998, a medical rukka was received in the police station with regard to the admission of Pala Ram in the hospital. After taking the opinion with regard to the fitness of the complainant, the statement of the injured was recorded on the same day. As per the complainant, at about 07.45 p.m., on 29.01.1998, he

was working in his office with regard to the election duty and Azad Chowkidar was also present with him. In the meantime, Gurdas son of Jagpal Singh came there, accompanied by two more persons and he was in inebriated condition. After putting the *Barcha* on the ground, he stated that his man had come in his office and he should be brought out. The complainant asked the chowkidar to take him away. On this, Gurdas, accused/petitioner got furious and gave a *Barcha* blow to him. One blow was given on his chest and another blow was given on his stomach and other blows were given on the stomach and arms. Two persons gave push to the injured and he fell down. Azad chowkidar tried to save the injured but they had also beaten him up. On this, both the injured made a hue and cry and on this accused ran away from the place of occurrence. With these broad allegations, the formal FIR was registered against Gurdas, petitioner.

4. In order to prove the case, the prosecution examined HC Kirori Mal as PW1, SI Harish Chander Investigation Officer as PW2, Dr. Vijay Grover as PW3, Pala Ram complainant-injured as PW4, Azad Singh Chowkidar injured as PW5, SI/SHO Ajaib Singh as PW6 and thereafter the evidence of the prosecution was closed by order of the Court.

5. After the statement of the accused under Section 313 Cr.P.C. was recorded, the entire prosecution evidence appearing against him on record was put to him and he pleaded his false

implication in the present case. In his defence, the accused examined two witnesses, namely, Nikka Ram as DW1 and Lal Singh as DW2.

6. In the present case, the prosecution examined Dr. Vijay Grover as PW3 who had medico legally examined Pala Ram vide medico legally report Ex. PW3/A and found the following injuries on his person:-

1. Part of tongue $1\frac{1}{2} \times \frac{1}{2}$ cm. left side near amputated fresh bleeding present, wound left is incise.
2. Lateral $\frac{1}{3}$ of left ear chopped off. Leaving behind a lacerated incise wound.
3. $1\frac{1}{2} \times \frac{1}{12}$ inch, incised punctured wound right thigh.
4. $1 \times \frac{1}{2}$ inch, sharp punctured wound 2 inch below left clavicle on left chest.
5. $1 \times \frac{1}{2}$ inch incise wound left shoulder.
6. $\frac{3}{4} \times \frac{1}{2}$ inch lacerates wound left elbow
7. $\frac{1}{2} \times \frac{1}{2}$ cm. lacerates wound to right of umbilicus.

Injuries No. 1 to 5 were sharp and injuries No. 6 and 7 were blunt. Injury No. 45 was kept under observation and injuries No. 1 and 2 were declared sharp grievous. Injuries No. 3, 5, 6 and 7 were declared simple.

On the same day, he had medico-legally examined Azad Singh Chowkidar vide MLR as Ex.PW3/B and found the following injuries on his person:-

1. Swelling right chick, blacking of upper and lower lids with swelling present.
2. Contusion, reddish 12 x 11 inch middle of back.
3. Abrasion $\frac{1}{2}$ x 1 cm on left arm.
4. Abrasion 3x2 cm. on left side of neck.

Injuries No. 2, 3 and 4 were declared with simple blunt and injury No. 1 was blunt and was kept under observation.

7. Apart from that, Pala Ram complainant/injured was examined as PW4 who reiterated the version as mentioned in the FIR and was subjected to lengthy cross-examination. Another injured Azad Singh was examined as PW5, who also deposed on similar lines. Thus, it is evident that the ocular account was duly supported by medical evidence. Apart from that, the prosecution examined PW1 Head Constable Kirori Mal, who had recorded formal FIR Ex.P1. Harish Chander SI /Investigating Officer was examined as PW2 and on receipt of the rukka, he had gone to Government Hospital Tohana and after taking the medical opinion, he had recorded the statement of Pala Ram, complainant. He had conducted the investigation and after finding sufficient evidence against the accused, he arrested him and after completion of the investigation, final report under Section 173 Cr.P.C. was prepared by the then SHO.

8. I have gone through the findings recorded by the trial Court as well as the appellate Court. Both the Courts have consistently held that the prosecution evidence was cogent and

convincing and both the learned Courts below have recorded good reasons while convicting the present petitioner. There is no illegality or perversity in the impugned judgment passed by the learned Courts below and the conviction of the petitioner has been rightly recorded by the learned Court.

9. However, this Court cannot lose sight of the fact that the occurrence in the instant case had taken place on 30.01.1998 and the present petitioner faced the agony of trial/appeal for the last about 25 years. Even, at the time of the conviction, the petitioner was aged about 46 years. Consequently, at present, the petitioner is aged about 60 years. Apart from that, the custody certificate has been filed during the course of hearing today and it is apparent that in the last 25 years, the petitioner has not indulged in any criminal activity. He is the first offender and is sole bread earner of the family. Apart from that, as per the custody certificate, he has undergone actual custody of 04 months and 01 day, out of total sentence of 02 years.

10. Keeping in view the above discussion, the impugned order of sentence is modified to the extent that the sentence imposed on the petitioner is reduced to the period already undergone by him. However, the amount of fine is enhanced to Rs. 30,000/-, which shall be deposited in the Punjab and Haryana High Court Bar Clerks' Association, within a period of three months from today, failing which, the revision shall be deemed to be dismissed.

11. All pending applications, if any, are disposed off, accordingly.

01.08.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

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Yes/No

Whether reportable

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Yes/No