

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.238

CRR-1308-2019 (O&M)
Date of decision:29.08.2023

Gurmeet Singh

...Petitioner

Versus

State of Punjab

...Respondent(s)

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

Present: Mr. Brajesh Kumar Sharma, Advocate for the petitioner.
Mr. M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The present revision petition has been preferred against the judgment dated 19.04.2019 passed by the Additional Sessions Judge, Sangrur, partly accepting the appeal of the petitioner against the judgment of conviction and order of sentence dated 25.09.2017 passed by the Judicial Magistrate 1st Class, Malerkotla. The judgment of conviction and order of sentence passed by the learned trial Court under Sections 323/325 IPC has been affirmed and the petitioner was acquitted under Section 295 IPC.

2. At the very outset, learned counsel for the petitioner submits that he does not wish to challenge the conviction of the petitioner and prays that a lenient view may be taken, while awarding the sentence to the present petitioner. Even though the learned counsel has made a statement that he does not wish to challenge the conviction, still the merits of the case have

been examined in the light of the evidence led by the parties.

3. The FIR in the case was got registered by Nirmal Singh son of Puran Singh by alleging that at about 11:30/12:00 AM on 21.04.2014, the accused came on motorcycle at village Dhaler Kala at the house of the complainant and the complainant was taking rest in his house at that time. Gurmeet Singh, accused, entered the house of the complainant and caught hold of his hands and twisted the fingers of the complainant. Thereafter, the accused caused injuries to the complainant on his stomach as well as on both his legs. The accused further caused injuries on the neck of the complainant with the fist blows. Further, the accused also uprooted the beard of the complainant. On raising hue and cry, Mohinder Kaur and Baljinder Kaur rescued the complainant from the clutches of the accused and accused also caused injuries to Mohinder Kaur and Baljinder Kaur and finally fled from the spot. The complainant was got admitted in Civil Hospital, Malerkotla by Jagtar Singh, his brother-in-law and on the basis of the statement made by the complainant, the FIR was registered against the accused/petitioner.

4. In support of the prosecution case, seven witnesses were examined by the prosecution. PW-1 Nirmal Singh, complainant, identified his signatures on the statement Ex.PA and proved the same. Baljinder Kaur, eye witness, was examined as PW-2, whereas another eye-witness Mohinder Kaur was examined as PW-6. Both the eye witnesses had deposed on similar lines and supported the case of the prosecution. The prosecution further examined Dr. Bidhi as PW-3, who proved the medico-legal examination of the complainant and further proved MLR as Ex.PW3/B, Pictorial Diagram Ex.PW3/C. An application was also moved by the I.O. and vide his endorsement Ex.PW3/D, he declared the patient fit to make the statement. After

going through the x-ray, he declared injuries no.1 and 2 as simple in nature and injury no.4 as grievous in nature, as there was fracture on second metatarsal of left hand and his report for the same was Ex.PW3/E. PW-4 HC Manpreet Singh deposed that on 22.08.2014, he was posted at P.S. Sandaur and joined the investigation of this case with I.O. ASI Harjinder Singh, who arrested the accused. This witness duly proved arrest memo of accused Ex.PW4/A, personal search memo Ex.PW4/B. He further deposed that accused Gurmeet Singh produced the RC of motorcycle no.PB-13AC-4865 before the I.O. who took the same into police possession vide memo Ex.PW4/C This witness proved the original RC as Ex.PZ. PW-5 Kuldeep Singh, Steno DTO, Sangrur brought the summoned record of motorcycle No.PB-13AC-4865 and proved the fact that it was under the ownership of Gurmeet Singh who was accused in the present case. He proved the application Ex.PW5/A, which was moved by the police for the verification of the motorcycle.

5. After the closure of the prosecution evidence, the statement of the accused under Section 313 Cr.P.C. was recorded and he claimed his false implication. Only one document Ex.DX was exhibited during the defence evidence.

6. I have heard the learned counsel for the parties and perused the case file carefully.

7. As per the record, the criminal prosecution was initiated in the present case on the basis of the statement made by PW-1 Nirmal Singh. The statement of Nirmal Singh was duly corroborated by the testimonies of

PW-2 Baljinder Kaur and PW 6 Mohinder Kaur. PW-2 and PW-6 had also

supported the case of the prosecution, as mentioned in the initial complaint. The statements of the complainant and the eye-witnesses were duly substantiated by the statement of PW 3 Dr. Bidhi, who clearly stated that the complainant had suffered five injuries on his person and injury No.4 was declared to be grievous. It is also apparent that such injuries can never be manipulated nor could be self-suffered. Thus, the ocular account was duly corroborated by the medical evidence in the present case. Apart from that, PW-5 Kuldeep Singh, Steno, DTO Sangrur, clearly stated that the motorcycle, which was used by the accused, belonged to Gurmeet Singh, who was the accused in the present case. Still further, ASI Harjinder Singh, who was the Investigating Officer of the present case, was examined as PW-7 and the incriminating evidence led by the prosecution was taken on record. From the testimonies of all these witnesses, the offence under Sections 323/325 IPC was clearly made out against the respondent. Even otherwise, I have gone through the impugned judgment passed by the lower appellate court and find no infirmity, irregularity and perversity in the impugned judgment passed by the court.

8. Now adverting to the order on quantum of sentence, admittedly, the occurrence in the present case had taken place on 21.04.2014. During the course of hearing, the custody certificate has been filed by the learned State counsel and it is apparent that the petitioner has already undergone 6 months and 16 days of actual sentence out of total sentence of 2 years. Apart from that, the present petitioner is a poor person and is the sole bread earner of the family. Further, he has been facing the agony of trial/appeal for the last more than 9 years and no purpose would be served by sending him behind

bars, at this stage. Thus, in view of the facts and circumstances of the case, the ends of justice would be suitably met, if his substantive sentence is reduced to the one already undergone by him.

9. Keeping in view the above discussion, the impugned judgment dated 19.04.2019 passed by the lower appellate court is modified to the extent that the substantive sentence of imprisonment awarded by the courts below is reduced to the period already undergone by the petitioner. Further, the amount of fine is enhanced to Rs.50,000/-, which shall be deposited by the petitioner with Punjab and Haryana High Court Bar Clerks' Association within a period of 03 months from today; failing which, the present appeal shall be deemed to be dismissed.

10. With the above modification, the present appeal stands disposed of in the above terms. Pending application(s), if any, shall also stand disposed of.

29.08.2023
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO