



| Sr. No. | Offence                             | Imprisonment      | Fine   | In default of fine further imprisonment |
|---------|-------------------------------------|-------------------|--------|-----------------------------------------|
| 1.      | U/s 323 read with section 34 of IPC | RI for six months | 500/-  | One month                               |
| 2.      | U/s 325 read with section 34 of IPC | RI for one year   | 1000/- | Two months                              |

2. The petitioners filed an appeal before the Court of Additional Sessions Judge, Bhiwani and vide the impugned judgment dated 05.06.2015 passed by the Court of Additional Sessions Judge, Bhiwani, the appeal filed by the petitioners was ordered to be dismissed. Challenging both the common impugned judgments, the petitioners have filed the above mentioned petitions in this regard.

3. At the very outset, learned counsel appearing on behalf of the petitioners submits that he does not wish to challenge the impugned judgments of conviction and some leniency may be shown by this Court, while awarding the sentence to them. Even though the conviction of petitioners have not been challenged by them, still this Court has proceeded to examine the merits of the case independently.

4. As per the case of the prosecution, the FIR in the present case was ordered to be registered on the basis of the statement made by Smt. Laddo Devi. She alleged that on 04.07.2010, at about 04:00 P.M she was making strings in her plot. At that time, Ram Chander and Sanjay, residents of Village Fatehgarh came to her and asked about the whereabouts of her sons namely Naresh and Jai Bhagwan. The complainant replied that they had gone to Dadri, but Ram Chander said that she was telling lie and attacked on her with a danda, which hit

on her right shoulder and then struck a danda blow on left side of her stomach near her ribs and as a result of which, she fell down. Thereafter, Sanjay gave fist blow on her forehead and Ram Chander gave leg blow on her waist. Then Ranbir came there in his pick up Dalla and after getting down from the pick up dalla, gave fist and slap blows to her. She raised alarm of "mar-diya mar-diya", which attracted Santosh, wife of her son Naresh and nephew Pawan, son of her Jeth and on seeing them all the accused fled away in pick up dalla towards Paintawas. As per complainant there were 3-4 more boys in the pick up dalla including Sombir and there were lathies, dandas and iron rods in the said pick up dalla. Thereafter, the complainant was shifted in general hospital, Dadri for treatment by Satbir. The motive behind the crime is that one and half year ago son of Ram Chander was found dead on railway track and Ram Chander had lodged a murder case/complaint against her son and owing to that enmity they have caused injuries to her. Request was made to take action against the accused persons.

5. After the presentation of the challan, the Trial Court found that there was sufficient evidence to proceed against the accused for the offences punishable under Sections 323,325,34 of IPC to which they pleaded not guilty and claimed trial.

6. In support of the case of the prosecution, nine witnesses namely Smt. Lado Devi as PW-1, ASI Raj Kumar as PW-2, Pawan as PW-3, ASI Attar Singh as PW-4, Dr. Nitin Kalra as PW-5, Dr. Sandeep as PW-6, Constable Ashok Kumar as PW-7, Santosh as PW-8, Rajbir Singh as PW-9 were examined by the prosecution. The statements of the accused were recorded under Section 313 Cr.P.C and they pleaded their innocence. However, no

defence evidence was led by the prosecution.

7. In the present case, the complainant Laddo Devi had appeared as PW-1 and had supported the case of the prosecution completely. Apart from that, the prosecution examined two witnesses namely Pawan as PW-3 and Santosh as PW-8, who had supported the case of the complainant, PW-1 Smt. Laddo Devi. Apart from that, the prosecution had examined PW-5 Dr. Nitin Kalra, who tendered his affidavit Ex.PW5/A and proved the MLR Ex.PW5/B and medical Ruqqa Ex.PW5/C, he proved injuries mentioned in the MLR. In support of the said evidence, the prosecution also examined PW-6 Dr. Sandeep, who proved on record the X-Ray report of the complainant as Ex.PW-6/A and X-Ray films as Ex.PW-6/B. The testimonies of PW-5 Dr. Nitin Kalra and PW-6 Dr. Sandeep had fully corroborated the ocular accounts of the prosecution.

8. Apart from that, the prosecution also examined PW-4 ASI Attar Singh, who stated that on 10.07.2010 he was posted in Police Station Sadar Dadri and he had produced the accused in the Court and had recovered a Danda used in the commission of offence vide recovery memo Ex.PW-4/A from the accused. He and Constable Ashok had put their signatures on recovery memo as witnesses and he admitted his signatures on the recovery memo. He deposed that he had recorded the statement of witnesses under Sections 161 (3) Cr.P.C. Thereafter, the prosecution also examined Constable Ashok Kumar as PW-7, who had proved the recovery memo as Ex.PW-4/A and the danda which was used in the commission of crime was recovered in his presence. Rajbir Singh, ASI, the Investigating Officer was examined as PW-9, who proved on record the investigation conducted by him and supported the case of the prosecution.

9. This Court has carefully considered the evidence led by the

prosecution, which has been correctly appreciated by both the Courts. Even otherwise, I have gone through the findings recorded by the Courts below and find no material irregularity or illegality in the said judgments. The witnesses produced by the prosecution had proved the offence against the petitioners beyond the shadow of reasonable doubt and the impugned judgments of convictions are liable to be upheld by this Court.

10. Vide the impugned order of sentence, the petitioners have been sentenced under RI for a maximum period of one year. During the course of hearing, learned State counsel has placed on record the custody certificates of all the three petitioners. The petitioners Sanjay and Ranbir have undergone 02 months and 02 days of sentence, whereas Ram Chander has undergone 02 months and 03 days out of total sentence of one year.

11. Learned counsel for the petitioner has prayed for taking a lenient view while awarding the sentence to all the petitioners. As per the learned counsel, Ranbir petitioner, who is aged about 40 years and has three school going children in his family, who are fully dependent on him. Apart from that, Ram Chander is a senior citizen and is aged about 67 years. Sanjay, who is aged about 39 years and is the sole bread earner of the family. Still further, all the petitioners are facing prosecution more than 14 years. Consequently, by taking a lenient view in the present case, all the petitioners are ordered to be released on probation for a period of one year from the date they furnish the requisite bonds in that regard and bonds must be furnished within four weeks of receipt of certified copy of this order, to the satisfaction of the trial Court. During the period of probation, the petitioners shall not commit any offence and be of good behaviour. The petitioners would also furnish an undertaking before the trial

Court that they would undergo the remaining part of the sentence, if called for, to do so by a court of Competent jurisdiction during the period of his probation. The amount of fine imposed by the trial Court and maintained by the First Appellate Court, shall be converted into the litigation expenses.

12. However, the amount of fine is enhanced to Rs.20,000/- each and the petitioners are directed to deposit the amount of fine within a period of three months from today. Out of the said amount of Rs.20,000/- each, each petitioner shall deposit a sum of Rs.10,000/- with the Chief Judicial Magistrate concerned and Rs.10,000/- shall be deposited with the ***Punjab and Haryana High Court Bar Clerks Association***. The amount of fine deposited by the petitioners with the concerned Chief Judicial Magistrate shall be disbursed to the injured, after issuing notice to them.

13. With these modifications, all the petitions are ordered to be disposed off.

14. Pending applications, if any, are also disposed off.

15. Case property, if any, be dealt with and destroyed after the expiry of period of limitation for filing the petitions, in accordance with law. The Trial Court record be sent back, if received.

(N.S.SHEKHAWAT)  
JUDGE

06.10.2023  
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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable :       | Yes/No |