

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-22.03.2023

CRR-3150-2014(O&M)

Rajbir Singh & Anr.

.....Petitioners.

Vs.

State of Haryana.

.....Respondent.

AND

CRR-983-2015(O&M)

Ajit Singh.

.....Petitioner.

Vs.

State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.S. Mor, Advocate for the Petitioners
(in CRR-3150-2014).

Mr. Sharad Choudhary, Advocate for the Petitioner
(in CRR-983-2015) & for complainant (in CRR-3150-2014).

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

By this common order I propose to dispose of the
aforementioned two revision petitions. One revision petition bearing **CRR-
3150-2014** has been filed by the petitioners-accused against their conviction
whereas the revision petition bearing **CRR-983-2015** has been filed by the
respondent-complainant Ajit Singh for enhancement of the sentenced
imposed upon the petitioners-accused.

2. The instant revision petitions have been preferred by the

petitioners-accused against the judgment dated 18.09.2014 passed by Additional Sessions Judge, Bhiwani whereby the judgment of conviction dated 01.11.2011 and order of sentence dated 03.11.2011 passed by Sub Divisional Judicial Magistrate Charkhi Dadri has been upheld.

3. The brief facts of the case of the prosecution are that on 19.10.2022, one medial ruqa along with MLRs of Ajeet and Daya Nand, residents of village Pandwan was received in the police station concerning one assault case. On that the police party headed by HC Shamsheer Singh reached government hospital, Dadri and recorded the statement of injured Ajeet which is Ex.PW-2/A. As per the statement on 18.10.2022 at about 7.00 O'Clock, the complainant was present in his house when in the meantime Rajbir (petitioner no.1) son of Karan Singh in a drunken state of mind entered his house while hurling abuses. At that time, he went away. Later on at about 9.00/9.30 pm Sombir (petitioner no.2) son of Karan Singh and Rajbir Son of Karan Singh (both accused) came into the house of the complainant. At that time, the complainant was working in his house. Sombir was having a Pharsa in his hand whereas Rajbir was having a jelly in his hand. Sombir gave a Pharsa blow on the head of the complainant which hit on his forehead in the front side. Accused Rajbir gave a jelly blow on the person of the complainant which hit on the left hand. The complainant then fell down. In the meantime, Kamla wife of Rajbir and Bala wife of Sombir came there who also inflicted injuries on the person of the complainant. The wife of the complainant namely Sunita and his uncle Daya Nand also came at the spot to rescue the complainant. These two persons were also inflicted injuries by the accused by their respective weapons. In the light of the said statement Ex.PW-2/A a formal FIR was registered. Investigation was conducted. Statements of witnesses under Section 161 Cr.PC were recorded.

The accused were arrested and were produced before Court and were released on bail. On culmination of the investigation, the challan under Sections 452, 323, 324 and 325 IPC read with Section 34 IPC came to be submitted.

4. After hearing the APP for the State as well as the defence counsel and on an appraisal of the documents, accompanying the challan, a prima facie case for the commission of the offences punishable under Sections 453, 323, 324 and 325 IPC read with Section 34 IPC was found to be made out against the accused. Accordingly, the accused were charge sheeted, to which they pleaded not guilty and claimed trial. Thereafter, the prosecution lead evidence in order to prove the factum of the charge.

5. To substantiate its case, the prosecution examined Dr. H.L. Beniwal as PW-1, Ajeet son of Om Parkash as PW-2, ASI Shamsheer Singh as PW-3, Ajaib Singh, retired DSP as PW-4 and Sunita wife of Ajeet as PW-5. Thereafter, prosecution evidence was closed by the APP.

6. The statements of the accused under Section 313 Cr.PC were recorded wherein they pleaded themselves to be innocent and further stated that they had been falsely implicated in this case.

4. Based on the evidence led the petitioners-accused came to be convicted and sentenced as under:-

Sr.No.	Offence Sections under	Imprisonment	Fine	In default of fine imprisonment
1.	452 IPC	RI for a period of One Year	Rs.500/-each	SI for a period of One Month
2.	323 IPC	RI for 06 Months	-	-
3.	324 IPC	RI for 01 Year	Rs.250/-each	SI for a period of 01 Month
4.	325 IPC	RI for 01 Year	Rs.500/-each	SI for a period of One month

5. The petitioners-accused filed an appeal bearing Criminal

Appeal No.41/RBT dated 30.11.2011/20.02.2014 whereas the respondent-complainant filed Criminal Appeal No.188/RBT dated 10.01.2012/25.03.2014. The aforementioned appeals came to be decided by the court of Additional Sessions Judge, Bhiwani vide judgment dated 18.09.2014. Both the appeals were dismissed.

6. Against the said judgment, the petitioners-accused have preferred the aforementioned revision petition bearing CRR-3150-2014 against their conviction whereas the respondent-complainant has filed CRR-983-2015 for enhancement of the sentence imposed upon the petitioners-accused.

7. The Counsel for the petitioners-accused contends that the oral version is not corroborating the medical evidence. The injured were taken to the hospital by one Ram Karan who has not been examined by the prosecution. The prosecution has failed to establish motive behind inflicting the injuries. The site plan also does not depict the house of the complainant. Therefore, no offence under Section 452 IPC was made out. Since no recovery had been effected from the petitioners they could not be convicted for having caused the injuries upon the complainant party.

8. As against the contentions raised by the petitioners, the counsel for the complainant contends that the offence had been well established. The medical evidence was in consonance with the ocular count and, therefore, the question of acquittal of the petitioners-accused did not arise. On the contrary on account of the insufficiency of the sentence imposed upon the petitioners, the same ought to be enhanced.

9. The Counsel for the State while placing reliance upon the custody certificates of both the petitioners contends that the offence is well proved and, therefore, there were no grounds for acquittal of the petitioners.

10. I have heard learned Counsel for the parties at length.
11. The prosecution case is well established from the evidence of the witnesses. It cannot be held that the medical evidence was not in consonance with the ocular account. In fact Sunita, Daya Nand and Ajit have suffered injuries and the MLRs in question have been duly exhibited. Thus, the charges are well established. Therefore, I find no reason to interfere with the judgment of conviction and order of sentence recorded by the Sub Divisional Judicial Magistrate, Charkhi Dadri which has been upheld by Additional Sessions Judge, Bhiwani.
12. As regards the enhancement of sentence, it may be pointed out that the occurrence pertains to the year 2002. As many as more than 20 years have lapsed since then. Rajbir-petitioner was 28 years old at that point of time whereas Sombir-petitioner was 25 years old at that point of time. While petitioner no.1 has undergone a total custody period of 03 months and 05 days the petitioner no.2 has undergone a total custody period of 03 months and 04 days. At this stage, I find no reason to enhance the substantive sentence. On the contrary in view of the long pendency of the case, I deem it appropriate to reduce the sentence imposed upon the petitioners to the period already undergone by them. Ordered accordingly. However, the sentence of fine stands enhanced as under:-

Sr.No.	Offence under Sections	Fine Imposed by Trial Court	Fine Enhanced to
1.	452 IPC	Rs.500/-each	Rs.5000/- each
2.	323 IPC	-	
3.	324 IPC	Rs.250/-each	Rs.3500/- each
4.	325 IPC	Rs.500/-each	Rs.5000/- each

The aforesaid amount of Rs.27,000/- imposed as fine shall be released to the complainant-Ajeet, his wife Sunita Devi and Lrs of Injured-
Daya Nand as compensation in equal proportion.

13. Both the revision petitions stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

March 22, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>