

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

CRR-3529-2015(O&M)

Date of Decision:-19.04.2023

Shama.

.....Petitioner.

Vs.

State of Haryana & Anr.

.....Respondents.

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

Present:- Mr. Ashwani Bhardwaj, Legal Aid Counsel for the Petitioner.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has preferred by the petitioner-accused against the judgment dated 07.05.2015 passed by Sessions Judge, Kaithal whereby the judgment of conviction dated 17.05.2013 and order of sentence dated 18.05.2013 passed by Judicial Magistrate Ist Class, Kaithal has been upheld.

2. The brief facts of the prosecution case are that complainant Desh Raj, got recorded his statement to the effect that he was a labourer. On 10.12.2009, at about 12.00 pm he was in his house when his brother's daughter Sukhiya told him that an altercation had taken place between Ramphal and Shama at the Bara. After receiving this information he went to his Bara where Shama gave a slap on his face and he fell down on the earth. Then iron rod blows were given on his right leg. After hearing his noise his wife came there and Ramphal and his wife save him. When Shama went from there he threatened to kill him. On this statement, the FIR was lodged. After registration of the case the investigation was set into motion. The accused was arrested. The site plan of the place of occurrence was prepared. Statements of witnesses under Section 161 Cr.PC were recorded. After completion of the investigation, the challan in the case was presented in the Court.

3. A copy of the challan was supplied to the accused free of cost

as envisaged under Section 207 Cr.PC. The accused was charge-sheeted for the commission of offences punishable under Section 323, 325 and 506 IPC, to which he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined Dr. Sandeep Jain as PW-1, Desh Raj as PW-2, Dr. Naveen Bansal as PW-3, Ram Phal as PW-4 and ASI Sahab Singh as PW-5. Thereafter evidence of the prosecution was closed by court order dated 13.3.2013.

5. The accused was confronted with the prosecution's allegations and evidence on the record, which the accused denied in toto in his statement under Section 313 Cr.PC.

6. Based on the evidence led, the petitioner was convicted and sentenced as under:-

Sr. No.	Offence	Imprisonment
1.	Under Section 323 IPC	To undergo RI for period of one year and to pay a fine of Rs.500/-. In default of making payment of fine by the convict, the convict shall further undergo simple imprisonment for the period of thirty days.
2.	Under Section 325 IPC	To undergo RI for period of two years and to pay a fine of Rs.500/-. In default of making payment of fine by the convict, the convict shall further undergo simple imprisonment for the period of thirty days.
3.	Under Section 506 IPC	To undergo RI for period of one year and to pay a fine of Rs.500/-. In default of making payment of fine by the convict, the convict shall further undergo simple imprisonment for the period of thirty days.

The fine amount i.e. Rs.1500/- was paid by the petitioner before the Court below.

7. Against the aforementioned judgment the convicted accused filed a Criminal Appeal No.35 of 02.02.2015 which came to be dismissed by the court of Sessions Judge, Kaithal vide judgment dated 7.5.2015. However, the petitioner was ordered to be released on probation of good conduct for a period of six months on furnishing requisite bonds and was also directed to deposit a sum of Rs.40,000/- as compensation to be paid to the injured-complainant Des Raj.

8. The aforementioned judgments are under challenge in the present revision petition.

9. The Counsel for the petitioner contends that the conviction has been wrongly recorded in the present case as there were material contradictions in the evidence of the prosecution. In fact the conviction has

been recorded on conjectures and surmises and as the defence counsel has created suspicion on the prosecution case, the benefit of doubt ought to have been given to the petitioner.

7. I have heard the counsel for the petitioner.
8. In the instant case, the medical evidence is clearly in consonance with the ocular account. Complainant Des Raj had suffered a fracture in both bones of his right leg which is clearly borne out from the medical evidence. Merely, because the weapon of offence was not recovered or the investigating agency had failed to take bloodstained earth and clothes of the complainant into possession would not in any manner prove fatal to the prosecution case as the injuries received by the complainant are well proved. Therefore, the offence is well established from the statements of the witnesses and the material placed on record.
9. In view of the above I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2023
Vinay

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