

**237/3 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 13.09.2023

(i) CRR No.3873 of 2017 (O&M)

Jubbi Topi and another ...Petitioners

vs.

State of Haryana ...Respondent

(ii) CRR No.3887 of 2017

Amit @ Hero ...Petitioner

vs.

State of Haryana ...Respondent

(iii) CRR No.3951 of 2017

Deepak and others ...Petitioners

vs.

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Jagjot Singh, Advocate for
Mr. Kunal Dawar, Advocate
for the petitioners in CRR No.3873 of 2017 (O&M).

Mr. Vaibhav Parashar, Advocate
for the petitioner in CRR No.3887 of 2017.

Mr. Gautam Kaile, Advocate
for Mr. Rajiv Sharma, Advocate
for the petitioners in CRR No.3951 of 2017.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J.

1. This judgment shall dispose of a batch of three petitions i.e. CRR No.3873 of 2017, titled as Jubbi Topi and another Vs. State of Haryana, CRR No. 3887 of 2017, titled as Amit @ Hero Vs. State of Haryana and CRR No.3951 of 2017, titled as Deepak and others Vs. State of Haryana, which have been filed against the common impugned judgment dated 29.09.2017 passed by the Court of Additional Sessions Judge, Faridabad and the impugned judgment of conviction dated 03.09.2016 and order of sentence dated 05.09.2016, passed by the Court of Judicial Magistrate, 1st Class, Faridabad, whereby the present petitioners in all these petitions have been convicted and sentenced as under:-

Offence	sentence
Under Section 323/34 IPC	Six months rigorous imprisonment to convicts along with fine of Rs.1,000/- each. In default of payment of fine, the convicts shall undergo further simple imprisonment of 15 days.
Under Section 325/34 IPC	One year rigorous imprisonment to convicts along with fine of Rs.1,000/- each. In default of payment of fine, the convicts shall undergo further simple imprisonment of 15 days.
Under Section 506/34 IPC	Six months rigorous imprisonment to convicts along with fine of Rs.5,00/- each. In default of payment of fine, the convicts shall undergo further simple imprisonment of 15 days.

2. All the sentences were ordered to be run concurrently.
3. At the very outset, learned counsel for the petitioners submit that they do not wish to challenge the impugned judgment of conviction, but lenient view may be taken, while awarding the sentence to the present petitioners.

Even though, learned counsel for the petitioners do not wish to challenge the judgment of conviction, still this Court has examined the merits of the case.

4. The brief facts of the case are taken from CRR No.3873 of 2017. As per the case of the prosecution, at about 1.00 am on 03.07.2011, the complainant-Karan Singh came to the Police Station and made a statement to the effect that he had gone to Pristine Mall, Sector-31, Faridabad with his friends Vishal and Varun. When they were returning back, they had stopped at old Faridabad Chowk and two young men were already present there. They seemed to be under the influence of liquor and those persons had called them by making gestures. The complainant refused to go there and they were annoyed and rebuked him. He went to them and one of them slapped him without any reason and asked him as to why he had not come. His friends also tried to intervene, however, the accused attacked him. One of the accused had given a fist blow on his mouth, due to which his one tooth of upper jaw was uprooted and he also received injury on his upper lip. The accused was also wearing an iron punch. The complainant raised noise to save him and on this, the accused fled from there, while extending threats to the complainant. During the course of trial, the charge for the offences punishable under Section 323, 325, 506 of IPC was ordered to be framed against the petitioners and nine witnesses i.e. PW-1- Karan Singh, PW-2 Vishal Bareja, PW-3 Varun, PW-4 Dr. Ahi Bhushan, PW-5-Dr. Reena Yadav, PW-6 ASI Surender Singh, PW-7 ASI Rajender Singh, PW-8 C. Mohd. Sadik and PW-9 SI (Retd.) Kuldeep Singh were examined by the prosecution. In the present case, the complainant Karan Singh was examined as PW-1, who reiterated the contents of the complaint and

supported the case of the prosecution. His testimony was duly supported by PW-2 Vishal Bareja, who was an eye-witness and the prosecution also examined PW-3 Varun, another eye-witness of the present case. The testimony of PW-1 Karan Singh was duly supported by the statement of PW-2 Vishal Bareja and PW-3 Varun. All the said witnesses were cross-examined at length and even during their cross-examination, their testimonies could not be shattered in any manner.

5. The prosecution further examined PW-4 Dr. Ahi Bhushan, who found the following eight injuries on the person of the complainant:-

- 1. C/o pain both lips, clotted blood, swelling and tenderness present.*
- 2. Loss of one upper incisor tooth.*
- 3. Sub conjunctival hemorrhage present in right eye.*
- 4. C/o pain on left side of face, swelling and tenderness present.*
- 5. Multiple abrasion of various sizes on the back with clotted blood present.*
- 6. Linear abrasion of 15" x .3" on the neck with clotted blood present.*
- 7. Abrasion of size 5" x 1" on the right shoulder with clotted blood present.*
- 8. Multiple abrasions present over the abdomen with clotted blood present.*

6. The prosecution had further examined PW-5, Dr. Reena Yadav, Dental Surgeon, who had conducted clinical dental examination of injured

Karan and proved the dental report prepared by her as Ex.PW5/B and x-ray film as Ex.PW5/C and OSR as Ex.PW5/D. She deposed that one upper tooth of injured was missing from the socket with a fresh bleeding. This deposition further substantiate the version of the prosecution. The injuries reflected in the medical reports were not out of purview of the version put forth by the complainant. Thus, the statements of PW-1 to PW-3 were duly corroborated by the testimonies of PW-4 Dr. Ahi Bhushan and PW-5 Dr. Reena Yadav, Dental Surgeon. Even it also stands proved that the complainant was inflicted injuries, both simple and grievance. Apart from that, the prosecution had examined PW6 ASI Surender Singh, PW-7 ASI Rajender Singh, PW-8 C. Mohd. Sadik and PW-9 SI (Retd.) Kuldeep Singh, who had either conducted the investigation or remained associated during the course of investigation. Even except minor variations in the versions of these witnesses, the defence could not point out any reasons for disbelieving their testimonies. Even from the testimonies of the said witnesses, it is apparent that the guilt of the petitioners stood established. Apart from that, I have also gone through the impugned judgments passed by both the Courts below, whereby the petitioners have been convicted and found no reasons to set aside the well-reasoned findings recorded by both the Courts.

7. However, learned counsel for the petitioners in all the cases, submitted that a lenient view may be taken while awarding the sentence to all the petitioners. The Courts had already awarded the maximum sentence of rigorous imprisonment for a period of one year to all the petitioners in the present case. During the course of hearing today, learned State counsel has placed on record the custody certificates of all the petitioners and as per the said

custody certificates, all the petitioners have undergone more than two months of actual sentence. Apart from that, it is also apparent from the record that all the petitioners are facing the prosecution in the present case since 03.07.2011 i.e. for the last more than about 12 years. Apart from that, all the petitioners were very young at the time of occurrence and were the sole bread earners of their respective families. 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 years 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.

8. However, the amount of fine is enhanced to Rs.30,000/- 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.30,000/-, each petitioner shall deposit a sum of Rs.15,000/- with the Chief Judicial Magistrate, concerned and Rs.15,000/- each 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.

9. With these modifications, all the petitions are ordered to be disposed of.
10. Pending applications, if any, are also disposed of.
11. 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.

13.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No