

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

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(1)

CRR-1375-2018 (O&M)
Date of decision: 17.01.2023

Jagtar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

(2)

CRR-2021-2018 (O&M)

Nachhtar Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashok Giri, Advocate
for the petitioner in CRR-1375-2018.

Mr. Ramneek Vasudeva, Advocate
for the petitioner in CRR-2021-2018.

Mr. Sanish Girdhar, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This order will dispose of two cases i.e. **CRR-1375-2018**
& **CRR-2021-2018**, as both have arisen out of the same judgment.

CRR-1375-2018 has been preferred by accused Jagtar Singh against the judgment and order of conviction dated 09.04.2018 passed by learned Sessions Judge, Rupnagar to impugn his conviction whereas CRR-2021-2018 has been preferred by the complainant for enhancement of the sentence from 06 months to the maximum, provided under law awarded, to accused Jagtar Singh.

Vide judgment and order of conviction dated 09.04.2018 passed by learned Sessions Judge, Rupnagar, accused Jagtar Singh was convicted and sentenced as under:-

Name of Convict	Offence(s)	Period of sentence	Fine imposed	Period of sentence in default of payment of find
Jagtar Singh	324 of the IPC	RI for 06 months	Rs.10,000/-	RI for 01 month

The case as set up by the prosecution may be noticed as thus:

The FIR in question was registered at the instance of PW1 Nachhtar Kaur wherein she alleged that on 08.07.2010 at about 06:30 P.M., while she was alone in her house, she saw that accused Jagtar Singh along with Babbi accompanied by 03 other unidentified persons were fiddling with and trying to close the water pipe. When she stopped them from doing so, petitioner Jagtar Singh attacked her with a *kirch* as a result of which she received an injury on her left hand and fell down. All the accused including petitioner Jagtar Singh along with other unidentified persons thereafter fled away from the spot. Daughters-in-law of PW1 Nachhtar Kaur lifted her up and once her sons came home, she was shifted to Civil Hospital Morinda where her medico legal examination was conducted. The Trial Court vide judgment and order dated 28.11.2016 acquitted the accused of the charges under Sections 324, 326 and 34 of the IPC on the following grounds:-

(i) that the occurrence took place on 08.07.2010, however, the FIR in question was registered after a delay of 06 days on 14.07.2010 qua which no plausible explanation had come forth. It was also held that the possibility of a false version being brought forth by the complainant could not be ruled out particularly in view of the 06 days

delay in the lodging of the FIR.

(ii) that although it was alleged by the complainant that it as on account of a civil litigation pending between the accused and the complainant party that the occurrence in question had taken place, however, while stepping into the witness box the complainant as well as her daughter-in-law denied any knowledge of the civil litigation between the parties.

(iii) that as per the daughter-in-law of the complainant who stepped into the witness box as PW2, Nachhtar Kaur PW1 was taken to the hospital at 07:00 P.M., however, said Nachhtar Kaur had deposed that she had gone to the hospital only after her son came home at 09:00 P.M. and still further the time of arrival recorded in the MLR of PW1 was 10:40 P.M. which cast a serious doubt about the authenticity of the allegations levelled.

The Lower Appellate Court vide judgment and order dated 09.04.2018 upheld the acquittal of accused Taranjit Singh but accepted the appeal against acquittal of petitioner Jagtar Singh by holding him guilty and convicted him under Section 324 of the IPC and sentenced him as already detailed hereinabove.

I have perused the judgment passed by the learned Appellate Court and do not find any illegality much less perversity in the said judgment for the reasons to follow:-

This Court concurs with the findings recorded by the learned Appellate Court that it was a matter of record that injured Nachhtar Kaur had been removed to the hospital by her son after the occurrence in question and was examined by PW5 Dr.Parminderjit

Singh who also then sent *ruqa* PW5/A to the police soon thereafter qua her admission, the complainant party could, therefore, not be faulted with in case the FIR was not registered. Still further, PW Head Constable Vijay Kumar visited the hospital on the following day itself and moved an application (Ex.PW4/A) to know the condition of the injured. On being declared fit to make statement PW1 Nachhtar Kaur's statement was recorded on 09.07.2010, however, instead of lodging the FIR, PW Head Constable Vijay Kumar simply lodged a report in the *roznamcha*. Still further, the injury sustained in the occurrence in question as per the opinion of Dr. Parminderjit Singh PW5 was inflicted with a sharp edged weapon which finds due corroboration with the ocular evidence as petitioner Jagtar Singh was said to be armed with a *kirch* which is a sharp edged weapon. Moreover, the incised wound received by the injured was on the postero medial aspect of left hand which cannot be said to be a self inflicted or an injury with a friendly hand.

This Court in the aforesaid circumstances, is not inclined to set aside the impugned order of conviction qua petitioner Jagtar Singh.

Learned counsel for petitioner Jagtar Singh prays that since the petitioner has already suffered the agony of trial for more than 12 years after the FIR in question was filed on 14.07.2010, a lenient view be taken and his sentence be reduced to the period already undergone. Learned counsel submits that petitioner Jagtar Singh is a person of limited means and during the pendency of the instant revision he has been fastened with many liabilities and has not been involved in

any other criminal case.

Learned counsel for the petitioner-complainant has on the other hand prayed for enhancing the sentence imposed on petitioner Jagtar Singh as the injured was an old lady of 90 years.

As per the custody certificate on record, petitioner Jagtar Singh has undergone a total sentence of 01 month and 18 days as on 23.01.2018 out of the maximum substantive sentence of 06 months awarded to him under Section 324 of the IPC.

After hearing learned counsel for the parties, this Court is of the view that the ends of justice would be met if while maintaining the conviction of the appellant, his sentence is reduced to the period already undergone as the occurrence in question dates back to 08.07.2010. Petitioner Jagtar Singh was thus undergone the agony of protracted trial ever since then. He is not shown to be involved in any other criminal case after the crime in question. No useful purpose would be served in sending him behind the bars.

Ordered accordingly.

However, there shall be no modification with regard to fine imposed.

With the aforesaid modifications in the quantum of sentence, CRR-1375-2018 filed by accused petitioner Jagtar Singh is disposed of in the above terms and CRR-2021-2018 filed by the complainant is dismissed.

17.01.2023

(MANJARI NEHRU KAUL)

Vinay

JUDGE

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