

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 2741 of 2018 (O&M)

Date of decision:-20.04.2023.

Chhinder Kaur

.....Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Opinder Singh Lamba, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG., Punjab.

VIKRAM AGGARWAL, J.(ORAL)

1. The present revision petition assails the judgment dated 02.12.2017 passed by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, vide which respondent no.2 was convicted under Sections 323 and 325 of the Indian Penal Code, 1860 (for short the 'IPC) and was sentenced to undergo rigorous imprisonment for a period of six months alongwith fine of ₹ 1000/- and rigorous imprisonment for one year along with fine of ₹1500/- respectively, but no compensation was ordered to be paid to the petitioner-complainant. Challenge has also been laid to the judgment dated 21.02.2018 vide which the learned Sessions Judge, Sri Muktsar Sahib, while maintaining the conviction, ordered the release of respondent No.2 on probation and awarded only a sum of ₹ 25,000/- as compensation.

2. The facts, briefly put, are that on a complaint submitted by the petitioner-complainant, FIR No.141 dated 13.11.2016 was registered under Section 313 and 325 IPC, at Police Station Sadar, Sri Muktsar Sahib. It was

alleged that on 31.10.2016 at about 5.00 A.M., the nephew of the complainant namely-Major Singh started fighting with her when she went to answer the call of nature and slapped her. Her eye was injured as a result of which she fell down, after which she was given leg blows on her waist. On an alarm being raised, some persons from the neighbourhood gathered at the spot and on seeing them, respondent No.2 ran away from the spot. She was admitted in the Civil Hospital. The motive behind the occurrence was said to be a dispute which was going on between the parties pertaining to some chunk of land. Medico legal examination was conducted. On the basis of the statement and on the opinion of the doctor, the FIR was registered. Investigation commenced. On the completion of investigation, final report under Section 173 Cr.P.C., was submitted. Charges were framed and in the prosecution evidence, four witnesses were examined. Two witnesses were examined in defence. The trial Court convicted and sentenced respondent No.2 as referred to in the preceding paragraph.

3. In appeal, respondent No.2 was released on probation and ₹ 25,000/- was awarded as compensation.

4. I have heard learned Senior counsel representing the petitioner.

5. It has been submitted that the Appellate Court erred in releasing respondent No.2 on probation and further awarding only ₹25,000/- as compensation. It has been argued that it was not a fit case for release of respondent No.2 on probation and if the decision had been taken, the petitioner should have been adequately compensated. In support of his contentions, learned Senior counsel has relied upon judgments of the Hon'ble Supreme Court in **Ankush Shivaji Gaikwad Vs. State of Maharashtra, 2013 (2) R.C.R (Criminal) 1036** and **Mohd. Hashim Vs. State of U.P., and others, 2017 (1) R.C.R (Criminal) 152.**

6. I have considered the submissions made by learned Senior counsel, but am not able to agree with the same. The Additional Chief Judicial Magistrate, Sri Muktsar Sahib had vide judgment dated 02.12.2017 convicted respondent No.2 under Sections 323 and 325 of the IPC and sentenced them to undergo rigorous imprisonment for a period of six months alongwith fine of ₹1000/- and rigorous imprisonment for one year along with fine of ₹1500/- respectively. In appeal, the Sessions Judge, Sri Muktsar Sahib, exercised his discretion and noticed that an opportunity deserved to be granted to respondent No.2 to reform himself. It was also observed that he was not a previous convict and therefore, it was a fit case for releasing him on probation. A sum of ₹ 25,000/- was also ordered to be paid as compensation. In the considered opinion of this Court, there is no illegality in the said order as respondent No.2 was not a previous convict and it was a minor dispute between relatives and therefore, the purpose of releasing on probation was not only to give an opportunity to respondent No.2 to reform but also to maintain cordial relations between both sides. Compensation of ₹ 25,000/- in such a matter cannot be said to be inadequate by any means. In any case, the learned Sessions Judge, Sri Muktsar Sahib, exercised the discretion available to the Court and I do not find any jurisdictional error warranting interference in revisional jurisdiction.

7. I have gone through the judgments relied upon by learned Senior counsel for the petitioner. The judgment in ***Mohammad Hashim's*** case (*Supra*) would not apply to the present case as there is no minimum sentence fixed either under Section 323 or under Section 325 IPC. In ***Ankush Shivaji Gaikwad's*** case (*Supra*), it was laid down by the Hon'ble Supreme Court that after convicting an accused, it was mandatory for the Court to consider the question of award of compensation to the victim under Section 357 IPC, though it would be the

Court did not award compensation. However, the Appellate Court did award compensation and therefore, the provisions of Section 357 Cr.P.C., were complied with. The judgments relied upon by learned Senior counsel do not, therefore, help the case of the petitioner.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

April 20th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

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