

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

CRR-2251-2019(O&M)

Date of Decision:-31.08.2023

Balkar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondents.

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

Present:- Mr. Tarundeep Kumar, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner against the judgment dated 11.07.2019 passed by Additional Sessions Judge, Jind whereby the appeal filed by the petitioner against the judgment of conviction and order of sentence both dated 17.05.2016 passed by Judicial Magistrate Ist Class, Jind has been dismissed.

2. The brief facts of the case are that FIR No.70 dated 24.07.2012 under Sections 323, 325, 506 read with Section 34 IPC P.S. Alewa came to be registered against Ishwar (deceased) son of Dolla Ram and Balkar (petitioner) son of Jeeta Ram with the allegations that on account of previous enmity, on the date of occurrence the accused Ishwar had given a *danda* blow on the right leg of the complainant as a result of which complainant had suffered a fracture whereas the petitioner-Balkar Singh had given a *danda* blow on the right shoulder of the complainant. When an alarm was

raised by the complainant, his wife Laxmi and brother Dilbagh came, intervened and rescued the complainant from the clutches of the accused. The complainant was taken to the hospital for treatment, after which the aforementioned FIR came to be registered.

3. Pursuant to the filing of the report under Section 173(2) Cr.PC, both the accused were chargesheeted and while pleading not guilty, they claimed trial. During the pendency of the case, accused Ishwar died and the proceedings qua him were dropped on 30.10.2015. On conclusion of the Trial, the petitioner came to be convicted and sentenced vide judgment dated 17.05.2016 as under:-

Offence	Imprisonment	Fine	In Default
323 IPC	RI for One year	Rs.1000/-	SI for One Month
325 IPC	RI for Three years	Rs.1000/-	SI for Three Months
506 IPC	RI for Six Months	Rs.500/-	SI for 02 Weeks

4. The convict/accused (petitioner herein) preferred an appeal before the court of Additional Sessions Judge, Jind which came to be dismissed vide judgment dated 11.07.2019.

5. The instant revision petition has been filed against the aforementioned judgments of conviction.

6. The Counsel for the petitioner contends that the judgments of conviction were based on conjectures and surmises. PW-1 and PW-2 were discrepant in material particulars. The medical evidence was running contrary to the ocular account. No radiologist had been examined to prove the fracture on the leg of the complainant. The FIR had been registered after a considerable delay. Dilbagh Singh, the brother of the complainant was also an eye witness but was not examined by the prosecution for the reasons best known to it. He, therefore, contends that the judgments of conviction were liable to be set aside and the petitioner ought to be acquitted

of the charges framed against him.

7. The Counsel for the State on the other hand has filed custody certificate dated 30.08.2023 in court and the same is taken on record. He contends that the arguments raised by the petitioner have been considered and dealt with in their proper perspective by the Trial Court and the lower Appellate Court. Therefore there was no reason to interfere with the said judgments and the same were liable to be upheld.

7. I have heard counsel for the parties.

8. A perusal of the evidence on record would reveal that PW-1 Laxmi-complainant and PW-2 Ramesh Injured witness who are wife and husband respectively have duly supported the prosecution version and their deposition is consistent with each other as regards the manner in which the occurrence took place.

The non examination of the Radiologist is not fatal to the prosecution case because Dr. Rakesh PW-8 and Dr. Ajay Giri, PW-9 have well proved the injuries on the person of the injured. In fact, the medical evidence is completely in consonance with the ocular account and by no stretch of imagination can it be said that the injuries were self suffered.

As per the evidence on record the delay in the registration of FIR has been satisfactorily explained. In fact after the occurrence the petitioner had been shifted to PGIMS Rohtak because of which there was some delay. However, the said delay is not fatal to the case of prosecution in the facts and circumstances of the present case.

9. In view of the aforementioned discussion, I find no reason to interfere with the well reasoned judgments of conviction passed by the courts below and therefore the instant revision petition stands dismissed.

10. As regards the imposition of sentence, admittedly the

occurrence pertains to July 2012 and as many as 11 years have elapsed ever since. A perusal of the custody certificate would reveal that the petitioner has not been involved in any other case during the said period. Therefore, in view of the attending facts and circumstances, the sentence imposed upon the petitioner is reduced to the period already undergone by him. However, the quantum of fine and sentence in default shall remain intact.

11. The revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

August 31, 2023

Vinay

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