

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

CRR-1310-2013(O&M)

Date of Decision:-30.10.2023

Jagmender & Ors.

.....Petitioners.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. V.D. Sharma, Advocate for
Mr. Sanjiv Gupta, Advocate for the Petitioners.

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

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioners-accused against the judgment dated 10.04.2013 passed by the Sessions Judge, Jind whereby the judgment of conviction and order of sentence dated 18.10.2012 and 19.10.2012 passed by Sub Divisional Judicial Magistrate Narwana has been upheld.

2. The brief facts of the case are that the FIR in question came to be registered at the instance of Savitri wife of Ramphal who stated that on 24.6.2009, while she and her husband Ramphal were present at their house, three boys came on a motor cycle. One of them was Jagmender (Petitioner no.1) son of Sh. Sewa Singh, son-in-law of her Jeth, Rajinder and the names of the other boys were not known to her. Jagmender caught hold of her and shook her by the neck. During this scuffle a gold chain broke down and fell

down. Slaps and fist blows were given to her. On hearing her cries for help, her husband Ramphal came to the spot and all the three boys started assaulting him with lathies and also gave him fist blows and slaps. On hearing cries many people gathered at the spot. On seeing those persons, Jagmender and one other boy fled away on the motor cycle and one of the boy fled towards the fields. On being caught by the villagers, he disclosed his name as Meher Singh (Petitioner No.2 who is stated to have died on 8.3.2015). Thereafter, she was admitted in the hospital along with her husband. The motive was a land dispute.

3. After the registration of the FIR, the report under Section 173(2) Cr.P.C. was presented in Court and on conclusion of the Trial, all the petitioners came to be convicted and sentenced as under:-

Sr.No.	Offence under Sections	Imprisonment	Fine	In default of fine imprisonment
1.	Section 323 read with Section 34 IPC	RI for a period of six months each	Nil	Nil
2.	Section 325 read with Section 34 IPC	RI for 02 Years each	Rs. 1000/- each	Three months each

Both the aforesaid sentences were ordered to run concurrently.

4. The petitioners-accused filed an appeal bearing Criminal Appeal No. 275 dated 19.11.2012. The said appeal came to be dismissed by the Court of Sessions Judge, Jind vide Judgment dated 10.4.2013.

5. Against the said judgment, the petitioners-accused have preferred the instant revision petition against their conviction.

6. The Counsel for the petitioners states that petitioner No. 2 Meher Singh died on 8.3.2015 during the pendency of the instant revision petition. He contends that the petitioners have been falsely implicated in the present case. The evidence of the prosecution witnesses was contradictory.

Despite availability of the same, no independent witness was joined in the investigation. There was an inordinate delay of six days in the registration of the FIR which remains unexplained. The medical evidence was contrary to the ocular account. He therefore, contends that judgments of conviction were liable to be set aside.

7. The Counsel for the State has placed on record custody certificates dated 29.10.2023 of all the petitioners as per which petitioner Jagmender has undergone a total custody period of 02 months and 15 days whereas petitioner Mukesh has undergone total custody period of 01 month and 18 days out of the awarded sentence of 02 years. He contends that the medical evidence is in the consonance with the ocular account. The offences had been established beyond any reasonable doubt. All the petitioners had brutally assaulted the complainant party. Therefore, no fault could be found with the judgments of conviction passed by the SDJM, Narwana and the Sessions Judge, Jind.

8. I have heard learned Counsel for the parties at length.

9. A perusal of the evidence on record would reveal that the ocular evidence is in consonance with the medical evidence. PW5 Dr. Amrik Singh had medico legally examined injured Ramphal and Savitri vide MLRs Ex PW4/A and Ex PW4/B respectively which found three injuries each on their persons. As per the X-ray report Ex PW4/E and X-ray film ExPW4/F to Ex PW4/G there was a fracture of the left tibia on the lower end of the left leg of injured Ramphal. Thus it stands fully proved that all the petitioners including deceased Meher Singh had caused injuries to the complainant party on 26.6.2009.

As regards, the argument of delay in the registration of the FIR is concerned, a perusal of the record would reveal that immediately after the

medico legal examination of the injured Ramphal and Savitri, the doctor had sent a ruqa Ex PW4/C to the Police Station Uchana on the basis of which the police came to the spot and recorded the statement of injured Savitri. Since, no cognizable offence was made out from her statement, therefore, an entry in the DDR was made that further action would be taken after the receipt of the x-ray report. Thus, immediately after receipt of the same, the FIR came to be registered.

Further, mere non-recording of the statements of independent witnesses would not demolish the case of the prosecution in view of the categorical statements of PW1 Savitri and PW3 Ramphal.

10. In view of the above discussion, I find no reason to interfere with the well reasoned judgment of conviction and order of sentence recorded by the Sub Divisional Judicial Magistrate, Narwana which has been upheld by Sessions Judge, Jind. Therefore, the present petition stands dismissed.

11. As regards the imposition of sentence it may be pointed out that the occurrence pertains to the year 2009. Pursuant thereto the petitioners were convicted and their conviction was upheld. During the pendency of the instant petition, the petitioners were granted the concession of suspension of sentence and at that time a sum of Rs.30,000/- was ordered to be disbursed as compensation to the injured Ramphal vide order dated 21.05.2013. Therefore, at this stage no useful purpose would be served by sending the petitioners back into custody. Hence their sentence stands modified as under:-

Petitioner-Jagmender Singh

<u>Sr. No.</u>	<u>Offence under Section</u>	<u>Imprisonment</u>	<u>Fine enhanced to</u>
1.	Section 323 read with Section 34	RI for a period 02 months and 15	Nil

	IPC	days (actual period of custody undergone by the petitioner.	
2.	Section 325 read with Section 34 IPC	RI for a period 02 months and 15 days (actual period of custody undergone by the petitioner.	Rs. 16,000/-

Petitioner-Mukesh Kumar

<u>Sr. No.</u>	<u>Offence under Section</u>	<u>Imprisonment</u>	<u>Fine enhanced to</u>
1.	Section 323 read with Section 34 IPC	RI for a period 01 month and 18 days (actual period of custody undergone by the petitioner.	Nil
2.	Section 325 read with Section 34 IPC	RI for a period 01 month and 18 days (actual period of custody undergone by the petitioner.	Rs. 16,000/-

Both the aforesaid sentences shall run concurrently. The sentence of fine shall remain intact. Out of the aforesaid enhanced amount of Rs.16,000/- each imposed as fine, an amount of Rs.15,000/- each shall be disbursed to the injured Ramphal and Savitri over and above the amount of Rs.30,000/- which has been ordered to be paid as compensation vide order dated 21.05.2013.

13. The revision petition stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

October 30, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>