

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

Date of Decision:-31.08.2023

CRR-2473-2022(O&M)

Neetu @ Roop Basant.

.....Petitioner.

Vs.

State of Haryana & Anr.

.....Respondents.

AND

CRR-2459-2022(O&M)

Vinod @ Happy.

.....Petitioner.

Vs.

State of Haryana & Anr.

.....Respondents.

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

Present:- Mr. Rajinder Goel, Advocate for the Petitioner
(in CRR-2473-2022).

Mr. S.S. Jattan, Advocate for the Petitioner
(in CRR-2459-2022).

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

Mr. A.S. Virk, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

By this common order I shall dispose of both the
aforementioned revision petitions as the same have arisen out of the same
FIR and consequent judgments of conviction.

2. The instant revision petition has been preferred by the
petitioners against the judgment dated 31.10.2022 passed by Additional
Sessions Judge, Kurukshetra whereby the appeal filed by the petitioners

against the judgment of conviction and order of sentence dated 19.01.2016 passed by the Judicial Magistrate Ist Class, Kurukshetra has been dismissed

3. The brief facts of the case are that FIR No.57 dated 31.08.2009 under Sections 323, 324, 326, 506 IPC read with Section 34 IPC was registered with the allegations that the three accused namely Neetu @ Roop Basant (petitioner in CRR-2473-2022) and Vinod @ Happy (petitioner in CRR-2459-2022) along with Parveen Kumar @ Shathi had assaulted the injured Sukhwinder Singh (PW-2) causing grievous injuries to him.

Based on the evidence led, while accused no.3- Parveen Kumar @Shathi was acquitted, accused no.1 & 2 namely Neetu @ Roop Basant and Vinod @ Happy were convicted and sentenced vide judgment dated 19.01.2016 as under:-

Offence	Imprisonment	Fine	In Default
323 IPC	RI for Six Months	Rs.1000/-	SI for One Month
324 IPC	RI for One Year	Rs.1000/-	SI for Two Months
326 IPC	RI for Three Years	Rs.5000/-	SI for 03 Months
506 IPC	RI for One Month	Rs.500/-	SI for 07 Days

All the aforesaid sentences awarded were ordered to run concurrently. Fine was paid by the convicts/petitioners.

3. The convicts/accused (petitioners herein) preferred an appeal before the court of Additional Sessions Judge, Kurukshetra which came to be dismissed vide judgment dated 31.10.2022.

4. The instant revision petitions bearing CRR No.2473 of 2022 (on behalf of petitioner-Neetu @ Roop Basant) and CRR No.2459-2022 (on behalf of petitioner-Vinod @ Happy) have been filed against the aforementioned judgments of conviction.

5. The Counsel for the petitioners contend that the impugned judgments were liable to be set aside as they were based on conjectures and surmises without proper appreciation of the evidence on record. There was an unexplained delay of 02 days in registration of the FIR despite the fact that the injured was fit to make statement when he was medico legally examined. The medical evidence was running contrary to the ocular account. One Nanha Khan who had taken the injured to the hospital had not been examined as a witness which created a doubt in the case of the prosecution. They lastly contended that as the occurrence pertained to the year 2009, the sentence of the petitioners be reduced to the period already undergone by

them if the conviction was to be upheld.

6. The Counsel for the State on the other hand has filed custody certificates of both the petitioners dated 30.08.2023 and 29.08.2023 respectively in court and the same are taken on record. He contends that no interference was called for in the well reasoned judgments of the courts below. The medical evidence was totally in consonance with the ocular account. The delay in the registration of the FIR had been explained. The mere non examination of Nanha Khan did not in any way detract from the veracity of the prosecution case against the accused. As grievous injuries had been caused to the injured Sukhwinder Singh no case for reduction of sentence was made out.

7. I have heard counsel for the parties.

8. A perusal of the evidence on record would show that the prosecution witnesses are consistent in the manner in which the occurrence took place. PW-2 Sukhwinder Singh has described in detail as to how he was assaulted by the accused-petitioners.

PW-4 Dr. S.K. Nagpal, the then Deputy Civil Surgeon has testified about the number and nature of injuries suffered by Sukhwinder Singh at the time of occurrence. Injury no.1 was found to be grievous. All the injuries received could not be said to be self suffered. Therefore, the medical evidence was in consonance with the ocular account.

There is no delay in the registration of the FIR as has been sought to be suggest by the petitioners. The medico legal examination of the injured took place on 29.08.2009 at about 8.30 PM and the injured were was shifted to PGI, Chandigarh where he remained till 30.08.2009. On his discharge he was taken back to Kurukshetra where once again he remained admitted in hospital. As per PW-9 Ishwar Singh the statement of PW-Rajinder was recorded at about 4.00 pm on 31.08.2009 at Apna Hospital. Therefore, the delay if any has been satisfactorily explained.

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

10. As regards the imposition of sentence, it may be relevant to note that the occurrence pertains to the year 2009. A perusal of the custody certificates would reveal that the convicts have not been involved in any

other case till date. Therefore, while upholding the conviction of the petitioners, I deem it appropriate to modify their sentences as under:-

Offence	Imprisonment	Fine	In Default
323 IPC	RI for Six Months	Rs.5000/-	SI for One Month
324 IPC	RI for One Year	Rs.5000/-	SI for Two Months
326 IPC	RI for One Year	Rs.25,000/-	SI for 03 Months
506 IPC	RI for One Month	Rs.2500/-	SI for 07 Days

All the aforesaid sentences would run concurrently. Out of the enhanced fine imposed, a sum of Rs.25,000/- shall be paid as compensation to the injured Sukhwinder Singh. The sentence in default of payment of fine however will remain intact.

11. Both the revision petitions stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

August 31, 2023
Vinay

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