

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

CRR-914-2019

Date of decision: 20.11.2024

Mahender Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sourabh Dalal, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioner/complainant-Mahender Singh against the judgment dated 18.01.2019 passed by the Court of Additional Sessions Judge, Jhajjar vide which the appeal filed by the petitioner/complainant against the judgment of acquittal dated 12.01.2018 passed by the Court of CJM, Jhajjar, was allowed and accused/respondent No.2 Vipin @ Sintu was convicted under Sections 323 and 325 IPC but was directed to be released on probation.

2. The brief facts of the case are that on 15.05.2014, police reached General Hospital, Jhajjar where complainant Mahender got recorded his statement to the effect that on 15.05.2014 at about 02:30 PM, his neighbor Vipin @ Sintu told him to remove the bricks from the street. On this, the complainant told him that the said bricks would be used within next 2-3 days. Then Vipin @ Sintu started abusing him and also caused



injuries to him. He raised alarm on which his wife Babli and one Bal Kishan came and rescued him from the hands of the accused. On the basis of the aforesaid statement, FIR was registered and police carried out investigation. Accused/respondent No.2 was arrested. On completion of investigation, challan was presented.

3. A *prima facie* case being made out, charge under Section 323 and 325 IPC was framed against the accused to which he pleaded not guilty.

4. Prosecution examined PW-1 complainant Mahender, PW-2 Babli, PW-3 Dr. Babulal, PW-4 HC Dalbir, PW-5 Dr. Surinder and PW-6 P/SI Amit Kumar.

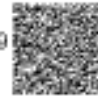
5. Thereafter, accused Vipin @ Sintu was examined under Section 313 Cr.P.C. However, accused did not examine any witness in his defence.

6. The trial Court acquitted the accused vide judgment dated 12.01.2018.

7. Being aggrieved, petitioner filed criminal appeal. The same was allowed vide judgment dated 18.01.2019 passed by the Court of Additional Sessions Judge, Jhajjar and accused was convicted under Section 323 and 325 IPC. However, the appellate Court after hearing the accused on quantum of sentence, gave him concession of probation to keep good conduct for a period of six months and in case of default to come present before the Court and to receive the sentence. The accused was also directed to pay compensation of Rs.10,000/- to the petitioner/complainant.

8. The petitioner being not satisfied by the aforesaid order of probation has filed the present revision petition.

9. I have heard the counsel for the petitioner and the State



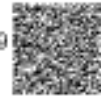
counsel.

10. The counsel appearing on behalf of the petitioner *inter alia* submits that the accused caused grievous injury with the help of blunt weapon on the person of the petitioner, as is evident from the ocular version narrated by PW-1 complainant Mahender and his wife who appeared in the witness box as PW-2. It is further submitted that the medical legal report of the petitioner is Ex.PW-3/A which was proved by Dr. Babulal. That PW-5 Dr. Surinder proved the x-ray and CT scan report, as per which fracture was detected. It is further submitted that it being so, the appellate Court rightly convicted the accused under Sections 323 and 325 IPC. It is further submitted that as the accused caused grievous injury, there was no reason or occasion for the appellate Court to release the accused on probation. The said Court should have sentenced the accused to imprisonment. It is further submitted that if this Court is of the view that there were sufficient grounds for the appellate Court to give benefit of probation to the accused, then the compensation awarded by the appellate Court being on lower side requires to be enhanced.

11. The State counsel submits that the accused was not a previous convict.

12. I have considered the submissions made by counsel for the parties.

13. Undoubtedly, the accused was convicted by the appellate Court under Sections 323 and 325 IPC. The offence under Section 323 IPC is punishable with imprisonment which may extend to one year while an offence under Section 325 IPC is punishable with imprisonment which may



extend to 7 years. There was nothing on the record to show that the accused was having criminal history. The accused was having statutory right to claim the concession of probation under Section 360 Cr.P.C. The Court below was under a duty to consider the applicability of Section 360 Cr.P.C, as per the mandate of Section 361 Cr.P.C. In view of express provision of Section 360 Cr.P.C and considering the facts and circumstances of the case, the nature of the offence, the antecedents of the accused, the Court below rightly exercised its jurisdiction and gave concession of probation to the accused. Further, the appellate Court also awarded compensation of Rs.10,000/- to the complainant vide its judgment dated 18.01.2019, as is detailed above.

14. There is nothing available on the record to show that the accused ever misused the concession of probation or failed to pay the aforesaid amount of compensation awarded by the Court below. Admittedly, the period of probation has already expired and the occurrence in question had happened more than 10 years back. In the given circumstances, there is no occasion for this Court to recall/set aside the order of probation dated 18.01.2019 passed by the Court below.

15. Taking into consideration, the nature of the injuries sustained by the petitioner and the trauma suffered by the petitioner on account of the aforesaid occurrence, interest of justice demands that the compensation worth Rs.10,000/- awarded by the Court below requires to be enhanced. Thus, accused/respondent No.2 Vipin @ Sintu is directed to pay Rs.25,000/- to the petitioner, as an enhanced compensation.

16. The Court of Additional Sessions Judge, Jhajjar (appellate



Court) is hereby directed to ensure that the aforesaid amount of compensation worth Rs.25,000/- be recovered from accused/respondent No.2 and thereafter, disbursed to petitioner Mahender Singh. The entire exercise is to be completed within a period of next 4 months and the compliance report is to be submitted with the registry of this Court.

17. The present revision petition is hereby disposed of in aforesaid terms.

20.11.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**