

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

CRR-1171-2023(O&M)

Date of Decision:-22.03.2024

Surinder Kumar & Ors.

.....Petitioners.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Amandeep Singh, Advocate for Petitoine no.1

Mr. Vishal Sharma, Advocate for Petitioner nos.2 & 3.

Mr. Mohit Saroha, AAG Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioners-accused against the judgment dated 18.04.2023 passed by the Additional Sessions Judge, Ludhiana whereby the judgment of conviction and order of sentence both dated 15.03.2017 passed by Judicial Magistrate Ist Class, Ludhiana has been upheld.

2. The brief facts of the case are that Vijay Kumar got recorded his statement to the effect that he had purchased a house which he had given on rent. On 25.04.2009 he along with his friend Narinder Kumar had gone to the said house to receive rent. At about 9.30 pm while they were near the Mandir, Surinder Kumar, his brother Pammi, Kaka, Captain Da Munda and 8/9 other persons armed with *Kirpans* and *Gandasis* started inflicting injuries on him. Pammi gave *Kirpan* blow which struck his right finger

while other persons inflicted injuries upon him due to which one of his teeth got dislocated. He and Narinder Sharma received many injuries. On raising hue and cry accused ran away from the spot while they (injured persons) were got admitted in the hospital.

3. On the basis of the aforementioned complaint FIR was registered and on conclusion of the investigation the report under Section 173(2) Cr.PC was submitted under Sections 324, 326 and 34 IPC. All the petitioners faced trial and vide judgment dated 15.03.2017 were convicted and sentenced by the court of Judicial Magistrate Ist Class, Ludhiana as under:-

Sr. No.	Offences under Section	Imprisonment	Fine	In default of fine imprisonment
1.	Section 324 r/w 34 IPC	RI for 03 years each	—	—
2.	Section 326 r/w 34 IPC	RI for 03 years each	Rs.1,000/- each	RI for 15 days each

All the aforesaid sentences were ordered to run concurrently.

4. All the convicted accused preferred an appeal bearing Criminal Appeal No.254 of 2017 before the Court of Additional Sessions Judge, Ludhiana, which came to be dismissed vide judgment dated 18.04.2023.

5. The aforementioned judgments are under challenge in the present revision petition.

6. The Counsel for the petitioners contend that no offence under Section 326, 324 IPC is made out. As per the statements of Dr. Chaitanya Juneja, Radiologist of CMC, Ludhiana and Dr. Raman Kumar, CMC Ludhiana recorded as PW-4 & PW-6, no fracture was found. Therefore, no offence could be made out under Section 326 IPC. Further no weapon of offence was recovered from the petitioners. The motive had also not been proved by the prosecution. Be that as it may, if this Court comes to the

conclusion that the conviction was to be upheld, as the petitioner Surinder Kumar had undergone custody of 01 year 01 month and 23 days whereas petitioners Paramjit Kumar @ Pammi and Jagdish Kumar @ Kaka had undergone custody of 01 year and 11 days respectively, the sentences should be reduced to the period already undergone by them as the occurrence pertains to the year 2009.

7. The Counsel for the State has placed on record custody certificates dated 19.03.2024 of all the petitioners as per which petitioner-Surinder Kumar had undergone custody of 01 year 01 month and 23 days whereas petitioners-Paramjit Kumar @ Pammi and Jagdish Kumar @ Kaka had undergone custody of 01 year and 11 days respectively out of the awarded sentence of 03 years. He contends that the offences against the petitioners stand well established. The medical evidence was totally in consonance with the ocular account. Vijay Kumar and Narinder Sharma had both received grievous injuries. Therefore, there was no merit in the present petition and the same was liable to be dismissed.

8. I have heard learned Counsel for the parties.

9. A perusal of the record would reveal that PW-1 Vijay Kumar has categorically enumerated the manner in which the occurrence took place. PW-6 Dr. Raman Kumar medico legally examined Vijay Kumar and Narinder Sharma. Injuries no.1 & 2 on the persons of Vijay Kumar and were declared to be grievous in nature. Similarly the injury on the person of Narinder Sharma was also declared to be grievous in nature. Once the medical evidence was in consonance with the ocular account it does not lie in the mouth of the petitioners to say that no offence under Section 324 IPC was made out.

10. In view of the above discussion, I find no ground to interfere

with the well reasoned judgments of conviction and order of sentence recorded by the Judicial Magistrate Ist Class, Ludhiana which have been upheld by Additional Sessions Judge, Ludhiana. Resultantly, the revision petition stands dismissed.

11. As regards the quantum of sentence, it may be pertinent to mention here that the occurrence took place FIR was registered in 2009. The petitioners are first time offenders and never misused the concession of bail either during the Trial or during the pendency of the appeal. Therefore while upholding their conviction, I deem it appropriate to reduce their sentence to the period already undergone by them. However, the sentence of fine and sentence in default of payment of fine shall remain intact.

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

(JASJIT SINGH BEDI)
JUDGE

March 22, 2024
Vinay

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