

2024.PHHC.102943



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR 1053 of 2024 (O&M)
Date of Decision: 07.08.2024

Sandeep		...Petitioner
	Versus	
State of Haryana		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Navneet Kaur, Advocate, for the petitioner.
Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 29.11.2022 passed by the Court of Ms. Vani Gopal Sharma, Sessions Judge, Sirsa and the judgment of conviction dated 12.07.2016 and order of sentence dated 14.07.2016 passed by the Judicial Magistrate 1st Class, Dabwali, whereby, the petitioner was convicted for the commission of the offence under Section 324 read with Section 34 IPC and Section 326 read with Section 34 IPC and was sentenced as under:-

<i>Under Sections</i>	<i>Imprisonment</i>
<i>Section 324 read with</i>	<i>To undergo rigorous imprisonment for</i>
<i>Section 34 IPC</i>	<i>a period of three years and to pay a</i>

fine of Rs. 1000/- and in default of payment of fine to undergo simple imprisonment for a period of one week.
Section 326 read with To undergo rigorous imprisonment for
Section 34 IPC a period of three years and to pay a
fine of Rs. 2000/- each and in default of payment of fine to undergo simple imprisonment for a period of fifteen days.

2. The FIR in the present case was got registered by Kuldeep Singh son of Pyare Lal, injured. As per him, at about 8.30 p.m. on 30.07.2013, he was returning from a confectionery shop after purchasing tea leaves. When he reached near his house, Sandeep son of Jagan Nath, petitioner was taking liquor in his drawing room and on seeing Kuldeep, he stated that he had to teach a lesson to the complainant for being a hooligan in the village. Sandeep came in the street and was carrying a *kapa* in his hand and gave a blow with it on his chin. In the meantime, Rani Devi, mother of Sandeep petitioner came in the street, caught hold of Kuldeep and asked Sandeep to give another blow. On this, Sandeep gave another blow of *Kapa* on his right arm. In the meantime, Rakesh son of Sukhdev was attracted at the spot and he tried to save Kuldeep Singh. However, Sandeep gave a blow with the *Kapa* on the right hand of Rakesh and thereafter Kuldeep Singh and Rakesh ran towards their house to save their lives. Sandeep also chased them and threatened to kill them. Thereafter,

Baljit, brother of the Kuldeep came there and on seeing him, Sandeep ran away from the spot alongwith *Kapa*. The main reason for dispute between the parties was that few days ago, there was exchange of hot words between the complainant Kuldeep Singh and Sandeep, present petitioner.

3. After presentation of the challan, the charge under Section 324, 326, 506 and 34 IPC was ordered to be framed against the petitioner and his mother Rani Devi.

4. In support of the charge, the prosecution examined 8 witnesses, namely, Kuldeep Kumar, complainant as PW1, Rakesh Kumar, injured, as PW2, Lady Constable Sangeet Devi as PW3, SI Jasbir Singh, the Investigating Officer as PW4, ASI Bhoop Singh as PW5, SI Rattan Singh as PW6, Dr. Manoj Mangla, MO CHC Odhan as PW7 and Dr. Raj Kumar MO G.H. Sirsa as PW8 and the entire medical record and the medical opinion and X ray report were also exhibited.

5. After the closer of the prosecution evidence, the statement of accused under Section 313 Cr.P.C. were recorded and they were implicated with all the incriminating evidence brought against them. However, they pleaded false implication. No defence evidence was led by them despite opportunity.

6. At the outset, learned counsel for the petitioner submits that she does not wish to challenge the conviction of the petitioner,

however, she prayed that a lenient view may be taken while awarding sentence to the present petitioner, as he was facing trial/revision since last 11 years and is a poor person. Though, the learned counsel for the petitioner has chosen not to challenge the judgment of conviction, still this Court has examined the legality of the impugned judgments passed by the Courts.

7. In the present case, the prosecution had examined Kuldeep Kumar, complainant as PW1, who supported the version of the prosecution as narrated in the FIR. His testimony was duly supported by PW2 Rakesh Kumar injured in all material aspects. PW4 SI Jasbir Singh was the Investigating Officer and he had collected all the incriminating evidence in the present case. He stated that on 30.07.2013 he was posted in P.S.Sadar Dabwali. On that day, a telephonic message was received on from P.S. City Dabwali regarding admission of injured Kuldeep son of Pyare Lal and Rakesh son of Sukhdev Singh residents of village Moujgarh in a quarrel and they had been referred to General Hospital, Sirsa. On this, he along with other police official went to P.S.City Dabwali collected ruqa and MLR of the injured. Thereafter, they reached at Bus Stand Dabwali for going to Sirsa but they could not go to Sirsa due to non-availability of conveyance. On the next day, i.e. 31.07.2013 he along with ASI Balwant Singh went to G.H. Sirsa where on his application Ex.PX, the doctor declared both the injured fit to make statement.

Thereafter, he recorded statement of injured Kuldeep Singh Ex.PA and recorded statement of Rakesh u/s 161 Cr.P.C. He made police proceedings on Ex.PW4/A on Ex.PA and sent the same to Police Station where on its basis FIR Ex.PW4/B was registered vide endorsement Ex.PW4/C. He prepared rough site plan of the place of occurrence Ex.PW4/D and recorded disclosure statements of accused Sandeep and Rani Ex.PW4/E and Ex.PW3/A respectively. In pursuance of his disclosure statement, accused Sandeep got recovered *Kapa*, used in the commission of offence, which was taken into possession vide recovery memo Ex.PW4/F. Site plan of place of recovery of *Kapa* Ex.PW4/G was prepared. Rough sketch of the *Kapa* Ex.PW4/H was also prepared.

8. Even PW5 ASI Bhoop Singh was remained associated with the investigation of the case and proved recovery memo of *Kapa* Ex.PW4/F, site plan of place of recovery Ex.PW4/G and rough sketch of *Kapa* Ex.PW4/H. PW6 SI Rattan Singh proved on record rukka Ex.PA, FIR Ex.PW4/B and his endorsement Ex.PW4/C.

9. Further, PW7 Dr. Manoj Mangla, MO, CHC Odhan proved the MLRs of injured Kuldeep and Rakesh as Ex.PW7/B and Ex.PW7/C, respectively. He had also proved medical rukkas Ex.PW7/D, Ex.PW7/E and opinions Ex.PW7/F and Ex.PW7/G. He had declared the injuries suffered by Rakesh and Kuldeep injured to be grievous in nature.

10. The prosecution further examined PW8 Dr. Raj Kumar, MO, GH Sirsa, who stated that on 31.07.2013, he conducted X-ray examination of Rakesh and Kuldeep. He also proved report Ex.PW8/A and X ray film Ex.PW8/B of injured Rakesh and X ray report Ex.PW8/C and X ray film Ex.PW8/D of injured Kuldeep. He gave his opinions Ex.PW8/E, Ex.PW8/F and Ex.PW8/G.

11. In the present case, the story of the prosecution was narrated by PW1 Kuldeep Singh injured/complainant, while appearing as PW1. He had narrated the entire prosecution case and his statement was duly corroborated by the testimony of PW2 Rakesh Kumar, injured. Both the witnesses were subjected to cross-examination, however, nothing was found during the cross-examination, which could discard their testimonies in any manner. Their statements have been duly supported by PW7 Dr. Manoj Mangla, who not only proved the MLR of Kuldeep and Rakesh but also proved the opinion declaring the injuries to be grievous in nature. Apart from that, the prosecution examined PW8 Dr. Raj Kumar, who proved the X ray reports and films of both the injured Rakesh and Kuldeep. Apart from that, even from the investigation, the involvement of petitioner was proved in the commission of the crime and the *Kapa* was recovered from him. PW4 SI Jasveer Singh had proved the entire investigation and his testimony is duly supported by PW5 ASI Bhoop Singh and PW6 SI Rattan

Singh. Thus, the investigation officer in the present case had found the version of the prosecution to be truthful and even during the course of trial, their testimonies remained unshaken. Thus, the prosecution had led overwhelming evidence to prove the charge against the present petitioner under Sections 324, 326 and 34 IPC.

12. Now adverting to the order on sentence, it is apparent that the FIR in the present case was registered on 31.07.2013. It is also apparent from the record that the petitioner is facing the agony of trial/revision for the last more than 11 years. The petitioner is married and has two children. His mother Rani Devi, co-accused is a senior citizen and usually remained ill. Thus, he was the only bread winner of the family and there is no one except him to take care of the family. Apart from that, his mother Rani Devi, co-accused has already been ordered to be released on probation by the Court of Sessions Judge, Sirsa. Apart from that, the custody certificate produced by the learned State counsel clearly shows that the petitioner has undergone 02 years, 09 months and 7 days of actual sentence out of the total sentence of 03 years awarded by the trial Court. Even no other case was ever registered against the present petitioner.

13. Keeping in view the above discussion, the sentence imposed on the present petitioner is reduced to the period already undergone by him. However, the sentence of fine will remain the same as awarded by the trial Court.

14. With the above modifications, the revision is partly allowed and the impugned judgment of conviction of the petitioner is upheld, whereas the order of sentence is modified to the extent that the sentence imposed on the present petitioner is reduced to the period already undergone by him. However, the sentence of fine will remain the same as awarded by the trial Court.

15. The petitioner is ordered to be released from jail, immediately, if not required in other case.

16. All pending applications, if any, are disposed off, accordingly.

07.08.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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