



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

CRR-2201-2017

Date of Decision:05.08.2024

GHANSHAM DAS

.....APPELLANT

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kashish Garg, Advocate
for the petitioner.
Mr. J.S.Rattu, DAG, Punjab
Mr. Ankit Bhinchaar, Advocate for
S.P.S. Sidhu, Advocate for Respondents No.2 to 4

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 397 Cr.P.C. where a revision petition has been preferred by the injured victim Ghansham Dass against the judgment dated 13.12.2016 passed by the learned Additional Sessions Judge, Bathinda (hereinafter referred as 'trial Court'), to seek enhancement of quantum of punishment and amount of compensation on accused-respondent no.2 to 4.

2. Brief facts of the case are that on 05.11.2014, complainant Rajinder Kumar along with Ghansham Das was going on 'Splendor' motorcycle bearing registration no. PB03V-0776 when on reaching the area of house of Bhim Sain located in 'Khaddar Bhandar Street', Rakesh Kumar @ Neela, Puran @ Chipri and Om Parkash were pelting brick bats and thereafter Rakesh Kumar threw a brick upon the complainant which hit his head; Puran @ chipri gave a brick blow above left ear; Om Parkash gave a brick bat blow which hit on his back. On seeing this when Ghansham Dass



came forward to rescue him, Rakesh Kumar gave two consecutive brick blows which hit on the nose and left pineon of Ghansham Dass whereas Puran and Om Parkash gave brick bat blows on the chin and back of Ghansham Dass respectively where the cause of enmity was that his nephew Mahesh Kumar got recorded a FIR against accused Rakesh Kumar and out of the said grudge, Rakesh Kumar inflicted injuries upon them.

3. Further, they were moved to Civil Hospital, Bathinda from where they were referred to Bharat Brain Hospital, Bathinda.

4. On the basis of above statement of complainant – Rajinder Kumar, FIR No.184 of 05.11.2014 under Section 308, 341, 323, 34 IPC was registered at Police Station Civil Lines Bathinda against three persons namely Rakesh Kumar @ Neela, Puran @ Chipri and Om Parkash. Investigation was conducted and challan was presented against all the three accused persons. After evidence was led by the parties, the learned trial Court, vide its judgment dated 13.12.2016, held all the three accused guilty of the offence under Section 308/323/341/34 IPC and convicted each of them with rigorous imprisonment for a period of four years and to pay a fine of Rs.10,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months under Section 308/34 IPC and rigorous imprisonment for a period of six months under Section 323/34 IPC and simple imprisonment for a period of 15 days under Section 341/34 IPC. All the sentences were ordered to run concurrently.

5. The petitioner has approached this Court to seek enhancement of quantum of sentence and amount of compensation on the ground that a lesser punishment has been awarded to the accused and lesser amount



compensation has been awarded to him, by the learned trial Court, in view of the gravity of offence.

6. It is contended by learned counsel for the petitioner that accused- respondents No.2 to 4 were charged for the offence under Section 308 IPC i.e. for attempt to commit culpable homicide whereby even if a hurt is caused the accused ought to have been punished for imprisonment of either description for a term which may extend to 7 years or with fine or with both. The accused-respondents in the instant case have been convicted for the offence under Section 308 IPC, thus, the punishment of four years is on the lesser side keeping in view the quantum of punishment provided for the offence under Section 308 IPC. Similarly, the quantum of compensation is inadequate because Rs.10,000/- has been awarded to be recovered from each of the accused which comes to Rs.30,000/- which is very less keeping in view the injury No.1 suffered by the petitioner, which, as per medical report, was declared to be grievous in nature and the possibility of it being dangerous in the absence of treatment cannot be ruled out. As such, the present petition is liable to be allowed.

7. It is also vehemently argued by the learned counsel for the petitioner that the complainant – Rajinder Kumar and the present petitioner, who is the injured victim, both have suffered grievous injuries and they have been suffering the pains and agony of injuries and were entangled in this litigation from the year 2016, i.e. more than 8 years by now.

8. Per contra, learned counsel for the State and for respondents No.2 to 4 have supported the judgment of the learned trial Court by contending that an adequate punishment and compensation has been awarded by the learned trial Court to the accused-respondents taking into



consideration the gravity of injury and offence. Therefore, no fault and ambiguity can be found in the judgment of the learned trial Court.

9. Heard both the sides and case file perused.

10. It is seen from the judgement of the learned trial Court that it has examined the matter from all the possible views and corners and the conviction/sentence has been awarded on the basis of the medical evidence led by the Medical Doctors and that the injuries were caused with brick bat only. Further, the opinion as regards injury No.1 on the person of the petitioner is mere possibility that had no treatment been given, the injury would have taken a greivous nature. Keeping in view the same, the learned trial Court has aptly awarded separate compensation to the petitioner and the complainant.

11. Moreso, while discussing the revisional jurisdiction of the courts, the Apex court in “*STATE OF KERALA, MANAGING DIRECTOR, WESTERN INDIA PLYWOODS Vs PUTTUMANA ILLATH JATHAVEDAN NAMBOODIRI, (1999) 2 SCC 425,*” has held that the revisional jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction.

12. Therefore, this Court finds no substance and merit in the present petition and also in the argument of learned counsel for the petitioner. Accordingly, the present petition fails and is ordered to be dismissed.

05.08.2024
anuradha

(SANDEEP MOUDGIL)
JUDGE

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