IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRR-3645-2017(O&M)

Date of Decision:-06.05.2024

Biyas Dev & Anr.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Ravneet Singh Joshi, Advocate for the Petitioners.

Mr. Vinay Kumar, Deputy Advocate General, Punjab.

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JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioners-accused against the judgment dated 20.09.2017 passed by the Additional Sessions Judge, SAS Nagar Mohali whereby the judgment of conviction and order of sentence both dated 07.09.2016 passed by Judicial Magistrate Ist Class, SAS Nagar, Mohali has been upheld and in addition conviction has been recorded under Section 324 IPC as well.

2. The brief facts of the case are that complainant Karan Kapoor got registered the FIR in question stating that he had got married to Veenu in November 2007. After sometime she had started to reside with her parents as they could not get along well. A court case was filed in that regard. On 26.06.2009 at about 9.20 pm while he was going towards his house, his brother in law Amandeep (petitioner no.2) and his father-in-law Biyas Dev (petitioner no.1) took 02 rounds around him on their scooter. They stopped

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their scooter along with 3/ 4 other motor cycles in front of his car. Amandeep got down from his scooter, pulled him (complainant) out from his car and his father-in-law attacked him with a small *kirpan* on the right side of his stomach and he fell down. His brother-in-law Amandeep attacked him with a small *kirpan* on his back. The other persons gave fist blows and raised *lalkaras* for filing a court case. On raising a hue and cry the accused fled away from the spot.

3. After the registration of the FIR the report under Section 173(2) Cr.PC was submitted and on conclusion of the Trial the petitioners came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, SAS Nagar, Mohali as under:-

Sr. No.	**Offences under Section**	**Imprisonment**	**Fine**	**In default of fine imprisonment**
1.	Section 326 IPC	RI for 03 years each	Rs.1000/- each	RI for 10 days each
2.	Section 341 IPC	RI for 01 Month each	–	–

Both the aforesaid sentences were ordered to run concurrently.

4. The petitioners preferred an appeal bearing Criminal Appeal No.46 of 26.09.2016 before the Court of Additional Sessions Judge, SAS Nagar, Mohali. The Court while upholding their conviction also convicted them for having committed the offence under Section 324 IPC. However, their substantive sentence was reduced as under:-

Appellant/Convict-Biyas Dev

Sr. No.	Offences under Section	Imprisonment	Fine	In default of fine imprisonment
1.	Section 326 IPC	RI for 02 years each	Rs.1000/-	RI for 10 days
2.	Section 324/34	RI for 06	_	_

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	IPC	Month		
3.	Section 341 IPC	SI for 01 Month	_	_

Appellant/Convict-Amandeep

Sr. No.	Offences under Section	Imprisonment	Fine	In default of fine imprisonment
1.	Section 324 IPC	RI for 01 year	-	-
2.	Section 326/34 IPC	RI for 01 Year	Rs.1000/-	RI for 10 Days
3.	Section 341 IPC	SI for 01 Month	_	_

All the aforesaid sentences of both the petitioners were ordered to run concurrently.

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

6. The Counsel for the petitioners contend that the petitioners had been falsely implicated in the present case. In fact, the complainant was married to the daughter of the petitioner no.1 and had implicated the petitioners so that they do not pursue their case against the complainant. The FIR had been registered after a delay of 08 days. This delay was fatal to the prosecution case. The medical evidence was contrary to the ocular account. The alleged weapon of offence was never sent for forensic analysis. No independent witness was examined to substantiate the prosecution version. He therefore, contends that the petitioners ought to be acquitted of the charges framed against them.

7. The Counsel for the State has placed on record custody certificates dated 02.05.2024 of both the petitioners as per which petitioner-Biyas Dev has undergone custody of 05 months out of his awarded sentence of 02 years whereas petitioner-Amandeep has undergone custody of 05 months out of his awarded sentence of 01 year. He contends that no fault

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could be found with the well reasoned judgments of the Trial Court and the lower Appellate Court. Once the lower Appellate Court came to the conclusion that the offence under Section 324 IPC was also made out on the basis of the evidence recorded, the petitioners could not be aggrieved in any manner. Even otherwise, they had already been convicted for the higher offence i.e. Section 326 IPC. He therefore contends that the present petition was liable to be dismissed.

8. I have heard learned Counsel for the parties and examined the record.

9. A perusal of the record would reveal that the instant occurrence took place on account of the estranged relations between the complainant on the one hand and the petitioners on the other. Therefore, the motive is established beyond reasonable doubt. The delay of 08 days in the registration of the FIR stands explained. In fact, the complainant had been declared unfit to get recorded his statement because of which the statement leading to the registration of the FIR was recorded later. The medical evidence is totally in consonance with ocular account. As the complainant himself was an injured witness the requirement of corroboration by an independent witness is not required.

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, SAS Nagar, Mohali which have been upheld by Additional Sessions Judge, SAS Nagar, Mohali. Resultantly, the revision petition stands dismissed.

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11. As regards the imposition of sentence, it may be pointed out that the occurrence pertains to the year 2009. The petitioner-Biyas Dev had undergone custody of 05 months out of his awarded sentence of 02 years whereas petitioner-Amandeep had undergone custody of 05 months out of his awarded sentence of 01 year. They are first time offenders with no other cases registered against them. Therefore, while upholding their conviction, I deem it appropriate to reduce their substantive sentence to the period already undergone by them i.e. 05 months each. 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

May 06, 2024
Vinay

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

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