



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

CRR-2793-2018 (O&M)
Date of decision: 05.11.2024

Hardeep Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Arjun Atri, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

CRM-29508-2018

For the reasons as mentioned in the application, the same is allowed. Delay of 82 days in filing the appeal is condoned.

CRR-2793-2018

1. The present revision petition has been filed by the petitioner/complainant against the judgment dated 17.11.2017 passed by the Court of Additional Sessions Judge, Ambala vide which the appeal filed by petitioner against the judgment and order dated 23/26.09.2016 passed by the Court of Additional Chief Judicial Magistrate, Ambala whereby respondents No.2 to 5 were convicted under Sections 323, 325 read with Section 34 IPC but were directed to be released on probation, was disposed of with modification and the petitioner was granted compensation worth Rs.30,000/- out of the total penalty of Rs.32,000/-.

2. The brief facts of the case of prosecution are that on



06.07.2012, complainant/injured Kuldeep Singh, recorded his statement with the police to the effect that on 05.07.2012 at about 09:30/10 PM, he received information that his brother Hardeep Singh (petitioner), who is residing in Shivpuri Colony, had a fight with his neighbor. The complainant and his mother reached there and saw that Bakshi Lal and his sons Deepak, Aakash and some ladies who were residing in the neighborhood of Hardeep Singh were fighting with him. In the meantime, some boys also reached the spot on motor cycles. The said boys along with Bakshi Lal, his sons and ladies attacked the complainant, his brother Hardeep Singh and their mother and they started pelting bricks and stones. The complainant raised hue and cry on which other neighbors also reached the spot and then the accused persons went away after extending threats. Hardeep Singh was referred to Government Hospital, Sector-32 Chandigarh, due to severity of the injuries. Resultantly, FIR was registered. During investigation, accused/respondents No.2 to 5 namely Bakshi Lal, his two sons Aakash and Deepak and one Sumit @ Sunny were arrested. On completion of investigation, police presented final report under Section 173 Cr.P.C.

3. The learned trial Court framed charges under Sections 323, 325, 506 read with Section 34 of IPC, to which the accused/respondents No.2 to 5 pleaded not guilty and claimed trial.

4. Prosecution examined injured Hardeep Singh as PW-1. PW-2 Dr. Shalini tendered her affidavit Ex.PW-2/A and proved MLRs Ex.PW-2/B, Ex.PW-2/C and ruqa Ex.PW-2/D. PW-3 Dr. Deepinder Singh proved case summary Ex.PW-3/A while PW-4 Vishv Goyal also proved medico legal summary Ex.PW-3/A. PW-5 ASI Om Parkash proved



document Ex.PW-4/A and FIR Ex.PW-4/B. PW-6 SI Karan Singh also proved the investigation carried out by the police. Complainant Kuldeep Singh while appearing in the witness box as PW-7 failed to support the prosecution case. Kesar Kaur, mother of the complainant appeared in the witness box as PW-8 while DSP Pawan Kumar was examined as PW-9. Narinder Kaur wife of injured Hardeep Singh was given up by the State counsel. Finally, the prosecution evidence was closed by order.

5. Statements of the accused under Section 313 Cr.P.C were recorded. They pleaded innocence and false implication. However, the accused did not examine any witness in their defence.

6. After hearing the counsel for the parties, the trial Court vide judgment dated 23.09.2016 convicted the accused under Sections 323 and 325 read with Section 34 IPC and released them on probation in terms of Section 360 Cr.P.C to keep peace and be of good behavior for a period of one year and further directed them to pay Rs.1000/- each as costs of proceedings, vide order dated 26.09.2016.

7. The petitioner being not satisfied by the said order of probation dated 26.09.2016, preferred an appeal.

8. After taking into consideration the rival contentions raised by the counsel for the parties, the appellate Court vide its order dated 17.11.2017, modified the order of probation in the following terms:-

“Keeping in view the facts and circumstances, the judgment of conviction dated 23.09.2016 is hereby affirmed and order on sentence dated 26.09.2016 is modified to the extent that in addition to the penalty of Rs.1000/- each imposed upon the accused-respondents No.1 to 4 by the trial Court vide impugned order, respondents No.1 to 4/accused are further burdened with penalty of Rs.7000/- each to compensate the appellant/complainant. Respondents/accused are directed to deposit the total penalty amount of Rs.28,000/- before the trial Court on or before



29.11.2017. The trial Court is directed to disburse an amount of Rs.30,000/- to the appellant/complainant towards compensation out of total amount of Rs.32,000/- (Rs.28,000/- imposed by this Court+Rs.4,000/- already deposited vide order dated 26.09.2016) and adjust remaining amount of Rs.2000/- towards costs of proceedings. Appeal is disposed of in above mentioned terms.”

9. Being still aggrieved, petitioner/complainant has filed the present revision petition to set aside the order of probation dated 26.09.2016 and the judgment dated 17.11.2017 passed by the Court of Additional Sessions Judge, Ambala.

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

11. The counsel for the petitioner while referring to the ocular and medical evidence submits that petitioner sustained fracture of right clavicle bone for which he was treated in GMCH, Sector-32, Chandigarh. It is further submitted that the oral statements made by petitioner Hardeep Singh and her mother are fully corroborated by the medical evidence. It is further submitted that the accused were facing grave charges of causing grievous hurt to petitioner with the help of blunt weapon. That the order of probation dated 26.09.2016 and the judgment dated 17.11.2017 are not sustainable and both the said orders deserve to be set aside. The accused persons be directed to surrender before the Court concerned and be sentenced to imprisonment. It is further submitted that the compensation awarded by the Court of Additional Sessions Judge, Ambala while passing the judgment dated 17.11.2017 is also inadequate and deserves to be enhanced.

12. The State counsel also supported the contentions raised by the counsel for the petitioner.

13. I have considered the submissions made by counsel for the



petitioner.

14. Undoubtedly, the accused/respondents No.2 to 5 were convicted by the trial Court under Sections 323, 325 read with Section 34 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 were having criminal antecedents. The accused were having legal right to claim the benefit of provision of Section 360 Cr.P.C. The trial Court 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 persons, the trial Court rightly exercised its jurisdiction and gave concession of probation to the accused persons. Further, the appellate Court awarded compensation vide its judgment dated 17.09.2017, as is detailed above.

15. It is not the case of the petitioner that respondents No.2 to 5 ever misused the concession of probation in any manner or failed to make the payment of the compensation awarded by the Court below. Admittedly, the period of probation has already expired. In the given circumstances, after about 12 years of the occurrence, there is no occasion for this Court to recall the order of probation dated 26.09.2016 passed by the trial Court.

16. Taking into consideration, the nature of the injuries suffered by petitioner coupled with the fact that the petitioner remained admitted in hospital at Chandigarh for his medical treatment, it will be appropriate if the



amount of compensation awarded by the Court below is enhanced and respondents No.2 to 5 are directed to pay another amount of Rs.20,000/- to the petitioner, as a compensation, in total.

17. The Court of Sessions Judge, Ambala is hereby directed to ensure that the aforesaid amount of compensation worth Rs.20,000/- be recovered from respondents No. 2 to 5 and thereafter, disbursed to petitioner Hardeep Singh. The entire exercise is to be completed within a period of next 3 months and the compliance report is to be submitted with the registry of this Court.

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

05.11.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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