



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRR No. 2402 of 2007 (O&M)
Date of decision: 07.03.2025

Prem Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naresh Kumar Manchanda, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 17.11.2007 passed by the learned Additional Sessions Judge, Moga, vide which judgment of conviction and order on quantum of sentence dated 07.07.2004 passed by the learned Judicial Magistrate Ist Class, Moga, in criminal complaint filed under Sections 323, 325, 34 IPC, have been upheld only qua sentence under Section 325 IPC.

2. Brief facts of the case are that on 25.08.1997 at about 07:00 PM, the complainant – Harbhajan Singh after doing domestic work was returning to his house on foot. When he reached near the house of Nek Singh, then accused Jaswant Singh, Nek Singh, Prem Singh were found present near the house of Nek Singh. Accused Nek Singh was armed with dang and accused Prem Singh was armed with Hockey. When he was about to cross the accused then accused Jaswant Singh raised a lalkara that the complainant be caught and not spared and he be taught a

2025:PHHC:032730



lesson for lowering the level of house of Prem Singh and Nek Singh by putting earth in the possession. On this, Prem Singh gave hockey blow which hit him on the lower lip and his tooth broke down. Then Nek Singh gave dang blow which hit in the head of the complainant. Then Prem Singh gave hockey blows which hit on the back of the shoulders. The complainant fell down and Jaswant Singh gave leg blows on his chest. The complainant raised hue and cry which attracted Pal Singh and Surjit Kaur who saved the complainant from the clutches of the accused. Thereafter, the accused persons ran away from the spot with their respective weapons. Then, one Kuldip Singh got admitted the complainant in the Civil Hospital, Moga after arranging a vehicle where he was medically examined. On 26.8.1997 ASI Surjit Singh and other police officials came to the hospital and recorded his statement but no action was taken against the accused. Hence the complaint (supra) was filed against the accused persons.

3. Thereafter, vide judgement of conviction and order of sentence dated 07.07.2004 passed by the learned trial Court, the petitioner was convicted and sentenced under Sections 325 and 323 of IPC and was ordered to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.500/- along with default mechanism. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence, which was partly allowed by learned Lower Appellate Court vide judgment dated 17.11.2007 upholding sentence of the petitioner under Section 325 IPC and acquitting him under Section 323 IPC.

2025:PHHC:032730



4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 17.11.2007 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the petitioner, as he has already undergone a period of 01 month and 22 days including remission and is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the petitioner, as the learned Lower Appellate Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. In ***Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257***, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner, in which the offence is committed, age of the accused, should be considered, while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.



8. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the impugned judgment of conviction passed by the learned Lower Appellate Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The complaint in the present case was filed on 18.09.1997 and the petitioner has been suffering the agony of trial since the last more than 27 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per the custody certificate, the petitioner is not involved in any other case and has undergone total sentence of 01 month and 22 days including remission, out of total sentence of 01 year in the instant case.

2025:PHHC:032730



11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, the present revision petition is disposed of in the following terms:-

- (i) The judgment dated 17.11.2007 passed by the learned Additional Sessions Judge, Moga, affirming the judgment of conviction dated 07.07.2004 under Section 325 IPC is upheld, however, the order of sentence of even date, is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.*
- (ii) The sentence of fine of an amount of Rs.500/- imposed upon the petitioner by the learned trial Court is increased to Rs.5,000/-. The petitioner is directed to deposit the amount of fine before the learned trial Court within 01 month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for 15 days.*

13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

07.03.2025

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No