

CRR-2309-2009 (O & M)

2025:PHHC:006668



::1::

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

(202)

**CRR-2309-2009 (O&M)
Date of Decision: 17.01.2025**

Maheshinder Singh

... .Petitioner

Versus

State of Punjab

. ..Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jagjit Gill, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. G.B.S. Gill, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed impugning the judgment dated 06.08.2009 passed by the Additional Sessions Judge (Fast Track Court), Bathinda whereby the appeal filed against the judgment of conviction and order of sentence dated 17.11.2008 passed by the Judicial Magistrate Ist Class, Talwandi Sabo has been dismissed with a modification in the sentence.



::2::

2. The FIR in the present cases came to be registered on 10.06.2005. The judgment of conviction and order of sentence was passed on 17.11.2008. The appeal against the aforesaid judgment of conviction and order of sentence came to be dismissed on 06.08.2009 with modification in the sentence by the Additional Sessions Judge (Fast Track Court), Bathinda. The present revision petition was filed on 04.09.2009 against the aforesaid judgments of conviction and order of sentence and has come up for final hearing now i.e. after a period of 19 years from the date of registration of the FIR.

3. Succinctly, the facts of the prosecution story are that on 24.08.2003, one Q.S.T. was received from SHO, Police Station Maur to the effect that Bhalinder Singh son of Devinder Singh, resident of village Dhan Singh Khana was admitted in the Civil Hospital due to injuries and one Q.S.T. was also received from police Post, Civil Line, Bathinda that Maheshinder Singh son of Devinder Singh resident of village Dhan Singh Khana was admitted in the Civil Hospital, Bathinda due to injuries. ASI Jagtar Singh reached Civil Hospital, Bathinda and obtained the opinion of the doctor regarding the fitness of the injured Maheshinder Singh and Bhalinder Singh to make the statement as Bhalinder Singh was also referred from Civil Hospital, Bathinda. Maur to Civil Hospital, Bathinda. The Doctor declared both the injured as unfit to make statements. On 25.08.2003, ASI Gurnam Singh along with other police officials reached Civil Hospital, Bathinda and the Doctor declared Maheshinder Singh as fit



::3::

to make a statement but he declared Bhalinder Singh as unfit to make a statement. From the statement of Maheshinder Singh, a non-cognizable offence was found to be made out and Rapat in the Roj Namcha was made to that effect on 25.08.2003. On 26.08.2003, the Doctor declared Bhalinder Singh as fit to make a statement and he made the statement to the police that he was an agriculturist. They were two brothers and the division of the property between them had taken place. Their houses were adjoining to each other and the Panchayat had got effected a compromise between them regarding the property. However, the said compromise was not implemented and he had asked the Panchayat to get the compromise implemented. But his brother never appeared before the Panchayat and his brother Maheshinder Singh and his nephew Harsimaran Singh had demolished his Khal. On 24.08.2003, while he was sitting in front of his house, accused-petitioner Maheshinder Singh armed with a *Kahi* and Harsimran Singh @ Popal armed with a *Khapra* came there and they started demolishing the Anar Dana (drainage pipe) that he had installed for the disposal of rainy water. He asked his brother and nephew as to why they wanted to demolish the said drainage pipe but Harsimran Singh gave a blow with a *Khapra*. He bent backward and it could not hit him. Maheshinder Singh gave a blow with a spade and he lifted his arm to save himself and the spade hit on the palm of his right hand and an injury was caused near the thumb. He raised *roula* and his wife Mohinder Kaur came present there but both the accused left the spot with their weapons. The reason for the



::4::

enmity was that the *Khal* has been demolished by his brother. From the MLR of the injured, offence Under Section 324 read with Section 34 of IPC was found to be made out and ruqa was sent to the police station for registration of the FIR. On 26.08.2003, accused Harsimran Singh was found innocent in the investigation and on 23.09.2003, ASI Gurnam Singh arrested the accused-petitioner Maheshinder Singh. Thereafter, the X-ray report was obtained and the opinion of the doctor was sought regarding nature of injury and doctor declared the injury as grievous on 12.11.2003 whereafter, the offence Under Section 326 IPC was added against the accused-petitioner. He was again arrested but was released bail by the order of the Sessions Court. On completion of investigation, the challan against him was presented.

4. After hearing the arguments and from the perusal of the documents, there were *prima facie* sufficient grounds to presume that the accused-petitioner had committed the offences under Sections 324 and 326 of IPC, so he was charged accordingly, to which he pleaded not guilty and claimed trial.

5. The prosecution in its evidence examined PW-1 Dr. Kasturi Lal, Distt. Health Officer, Bathinda, PW-2 Dr. Anu Gupta, Radiologist, PW-3 Bhalinder Singh, PW-4 Mohinder Kaur, PW-5 ASI Gurnam Singh and thereafter, the State closed the prosecution evidence.

6. Thereafter, the statement of the accused-petitioner was recorded under Section 313 of Cr.P.C. putting to him the entire



incriminating material and the circumstances appearing against him. He denied the same and pleaded his false implication. He opted to lead evidence in defence and in defence evidence he examined Jit Singh as DW-1 and Harmel Singh as DW-2 and thereafter, closed his defence evidence.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of the Judicial Magistrate Ist Class, Talwandi Sabo, vide judgment of conviction and order of sentence dated 17.11.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	In default
326 IPC	RI for 03 years	Rs.2000/-	15 days

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge (Fast Track Court), Bathinda, vide judgment dated 06.08.2009 while reducing his sentence as under:-

Offence under Section	Sentence RI/SI	Fine	In default
326 IPC	RI for 02 years	Rs.2000/-	RI 15 days

9. The aforementioned judgments are under challenge in the present petition.

10. During the pendency of the instant revision petition, initially, vide order dated 30.10.2009 passed by this Court, the accused-petitioner was released on interim bail and thereafter, vide order dated 26.09.2011, this Court affirmed the aforesaid order and granted bail to him.



::6::

11. The learned counsel for the accused-petitioner contends that the impugned judgments are based on conjectures and surmises. The medical evidence was totally contrary to the ocular account. The accused-petitioner himself had received injuries in the occurrence and the genesis of the same had been withheld by the prosecution. Therefore, the accused-petitioner was liable to be acquitted. In the alternative, it is prayed that as the occurrence was of the year 2005 and the accused-petitioner had clean antecedents, he be released on probation or his sentence be reduced to the period already undergone by him, particularly, as both the parties are closely related to each other being brothers.

12. The Counsel for the State, on the other hand, has filed a custody certificate dated 16.01.2025 of the accused-petitioner, which is taken on record. As per the said custody certificate, the accused-petitioner has undergone 02 months and 16 days out of his substantive sentence. He alongwith the learned counsel for the complainant contend that the offence in question stood established beyond reasonable doubt. They contend that the accused-petitioner had brutally assaulted the complainant causing him grievous injuries. The nature of the allegations levelled against the accused-petitioner did not entitle him to the concession of either probation or reduction of his sentence.

13. I have heard the learned counsel for the parties.



::7::

14. A perusal of the deposition of the complainant and the medical evidence would leave no doubt whatsoever that the offence in question was committed by the accused-petitioner. The witnesses have deposed in a categorical and precise manner as to how the occurrence had unfolded. Therefore, the offences stand established beyond reasonable doubt.

15. In view of the above discussion, no fault can be found with the well-reasoned judgments of the Trial Court dated 17.11.2008 and the Lower Appellate Court dated 06.08.2009. Thus, the present petition stands dismissed.

16. As regards imposition of sentence, admittedly, the FIR was registered in the year 2005 and as many as 19 years have passed ever since then. A perusal of the custody certificates of the accused-petitioner would show that he does not have any criminal antecedents and is a first time offender. Therefore, the sentence of the accused-petitioner is reduced to the period already undergone by him i.e. 02 months and 16 days subject to his paying a sum of Rs.50,000/- as compensation to the complainant-injured/Bhalinder Singh.

17. The present revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

January 17, 2025

sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:-

Yes/No