



CRR-2198-2016

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In the High Court of Punjab and Haryana, at Chandigarh

CRR-2198-2016

Date of decision:30.10.2025

Sanjay

... Petitioner(s)

Versus

Rajinder and others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. J.P. Sharma, Advocate
for the petitioner(s).

Ms. Deepali Verma, AAG, Haryana.

Surya Partap Singh, J.(Oral)

1. The challenge in the instant revision petition is to the judgment of conviction and order of sentence dated 03.03.2015/05.03.2015 passed by the Court of learned Judicial Magistrate, hereinafter being referred as ‘Trial Court’, duly affirmed by the Court of learned Sessions Judge hereinafter being referred as ‘Appellate Court’, vide judgment dated 01.03.2016.
2. The above mentioned judgments have been passed in the backdrop of the fact that a trial for the commission of offence under Sections 323, 325/34 IPC was conducted by the learned Trial Court and in the above mentioned case while acquitting the accused/respondents No.1 and 2 for the charges under Section 325 IPC, they have been convicted for the commission of offence punishable under Section 323/34 IPC. It is also relevant to mention here that for the commission of offence punishable

under Section 323/34 IPC, instead of awarding sentence to undergo imprisonment, the respondents No.1 and 2 have been accorded the benefit of probation.

3. The petitioner who is the complainant in the above mentioned case, has alleged that both the Courts below have failed to appreciate that there is very specific and categorical evidence to show that the respondent No.1 and 2 were also responsible for the commission of offence punishable under Section 325 IPC. As per petitioner on account of wrong appreciation of evidence an erroneous conclusion has been drawn by the learned Trial Court, which has been affirmed by the learned Appellate Court merely, on the basis of conjectures and surmises.

4. **Notice of motion qua respondent No.3 only.**

5. It has been contended on behalf of petitioner that an error of judgment has been committed by learned Trial Court when it failed to appreciate that not only the ocular evidence was available on the file to show that grievous injury was suffered by the petitioner, but also the medical evidence. As per learned counsel for the petitioner, both the Courts below have failed to appreciate the above mentioned evidence.

6. In addition to above, the learned counsel for the petitioner has also argued that the learned Trial Court vis-à-vis Appellate Court have failed to prove that the overall conduct of respondent No.1 and 2, who had been threatening the petitioner even after conviction, has rendered them ineligible for the benefit of probation, but by ignoring the above mentioned factual aspect, the benefit of probation has been afforded to the respondent No.1 and

2. According to learned counsel for the petitioner, the above mentioned

erroneous view taken by the Courts below needs indulgence and interference of revisional jurisdiction of this Court.

7. Heard.

8. The record has been perused carefully in the present case, which shows that there are two aspects which needs to be determined in this case. They are:-

- i) Whether the respondents No.1 and 2 have been wrongly acquitted for the charge under Section 325 IPC.
- ii) Whether the benefit of probation has been wrongly accorded to the respondents No.1 and 2.

POINT NO.1

9. With regard to above mentioned point of determination, it is relevant to mention have that both the Courts below have dealt with the issue related to charge under Section 325 IPC and the concerned evidence on record in detail. The learned Appellate Court while analyzing the factual matrix of the case and the evidence available on record, observed that at the time of MLR no bone injury was found on the person of injured Ajay and that for the first time such bone injury was detected after a gap of 20 days from the date of occurrence. The learned Appellate Court has also highlighted the fact at the time of medico-legal examination or x-ray examination the injured Ajay had not complained about the bone injury.

10. Qua above mentioned observations, the learned Appellate Court has referred to the testimony of PW-3, the Medical Officer who had specifically deposed that at the time of medico-legal examination, the injured Ajay had not told the Medical Officer about the injury on left

forearm.

11. In the light of above mentioned observations, the learned Appellate Court affirmed the observations made by learned Trial Court with regard to acquittal of respondents No.1 and 2 qua charges under Section 325 IPC.

12. A careful perusal of the above mentioned observations made by learned Appellate Court and the relevant part of judgment of learned Trial Court coupled with the material available on record shows that the above mentioned observations made by both the Courts below are strictly in accordance with the material available on record. Otherwise also in the exercise of revisional jurisdiction, the scope of interference is very limited.

13. Taking into consideration the overall scenario, it is hereby held that there is no infirmity, illegality or perversity in the findings recorded by the Courts below, while acquitting the respondents No.1 and 2 from the charges under Sections 325 IPC. Thus, the point of determination No.1 is hereby answered against the petitioner.

POINT No.2

14. As far as this point of determination is concerned, in view of the fact that the respondents No.1 and 2 have been found guilty for the commission of minor offence, i.e. the offence under Section 323 IPC, and the maximum punishment prescribed for the above mentioned offence is imprisonment upto one year only and that the respondents No.1 and 2 have no criminal antecedents, it is hereby held that as per settled law the respondents No.1 and 2 are entitled for the benefit of probation and while according the above mentioned benefit to the respondents No.1 and 2, no

illegality was committed by the learned Trial Court. Thus, the point of determination No.2, too, is hereby answered accordingly, i.e. against the petitioner.

15. In view of findings recorded in the above mentioned two points of determination, it is hereby held that the present petition is devoid of merits and deserves dismissal. The same is hereby dismissed accordingly.

(Surya Partap Singh)
Judge

30.10, 2025
Kapil

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