



CRR-1986-2023 (O&M)

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

CRR-1986-2023 (O&M)

Date of Decision: 28.01.2025

BHIM RAI

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Binderjit Singh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

CRM-37387-2023

Allowed as prayed for and delay of 15 days in filing the
accompanying revision petition is condoned.

CRR-1986-2023

1. The present revision petition is preferred against the judgment of conviction dated 16.10.2018 passed by learned Sub Divisional Judicial Magistrate, Dabwali, District Sirsa vide which the petitioner along with other accused persons were convicted under Sections 452, 323, 324, read with Section 34 of Indian Penal Code and order on quantum of sentence dated 20.10.2018 vide which the petitioner along with other accused persons were granted the concession of probation and released on probation of good conduct for a period of one year and the appeal filed against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Sirsa vide judgment dated 10.05.2023.

2. As per case of the prosecution, the complainant Raj Kumar got recorded his statement to the police alleging that on 06.07.2013 at about 7-00 P.M. he came home. At about 8-00 P.M. he went to the shop of Jagsir Singh situated in front of their house. A little girl slipped in the water and he also slipped. Upon this, he started laughing. When he went to the shop of Jagsir Singh then Vikas objected to his laughing and a quarrel took place between them, due to which some articles in the shop got scattered. Vikas hit on his head with a glass jar (martbaan), as a result of which blood started oozing from his head. He went inside his house. Vikas followed him and attacked on him with a piece of broken glass of the jar and hit on his hands. Jagsir Singh who was having an iron rod, Prince (empty handed) and Bhim was having a Danda, also came there. Rikhi Ram, father of the complainant was sitting in the gallery. Jagsir Singh gave an iron rod blow on Rikhi Ram's head. Bhim gave 3-4 danda blows to his father. When his father tried to stand up then Prince pushed him on the ground. When Amarnath, brother of the complainant, came and tried to rescue them, then Vikas caused injury on his left arm with the broken glass of the jar. On hearing noise, several persons from the neighbourhood gathered there. Thereafter, all the above said four assailants ran away while throwing glass of broken jar and administering a threat to kill the complainant in future. Thereafter, the complainant informed his brother-in-law (sister's husband) Birbal Ram, who shifted the injured to CHC Dabwali. His father Rikhi Ram was referred to G.H.Sirsa while he and Amarnath took treatment at CHC Dabwali. It was prayed for taking action against all the above said four assailants. Pursuant to the above said statement of the complainant and MLRs of the injured, FIR in the instant case under sections 452, 323, 324, 506, 34 IPC was registered.

3. On assessing all the material available on the record, the learned trial Court vide judgment dated 16.10.2018 convicted the petitioner along with other accused persons for offences punishable under Sections 452, 323, 324, read with Section 34 of Indian Penal Code and released them on probation of good conduct for a period of one year vide order on quantum of sentence dated 20.10.2018 and the appeal filed against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Sirsa vide judgment dated 10.05.2023.

4. Learned counsel for the petitioner contends that the learned Courts below have fallen into grave error by convicting the petitioner for the offences punishable under Sections 452, 323, 324, read with Section 34 of Indian Penal Code as it is an admitted fact that petitioner was found innocent during investigation and he was not challaned. Learned counsel further contends that petitioner was later on summoned as additional accused on an application under Section 319 Cr.P.C. dated 01.09.2015 filed by the complainant. The said application was allowed on 16.09.2016. Learned counsel further contends that the order dated 16.09.2016 is not in consonance with the law and guidelines laid down by Hon'ble Supreme Court and as the order dated 16.09.2016 summoning the petitioner as an additional accused is not sustainable in the eyes of law, therefore, all the subsequent proceedings and the impugned judgments qua the petitioner are not sustainable and the same are liable to be reversed as the petitioner has fully proved that he was not present at the spot of alleged occurrence.

5. Per contra, learned State counsel supports the judgment of conviction passed by learned trial Court and submits that there is sufficient

6. Having heard the learned counsel for the parties and after perusing the record of the case with his able assistance, it transpires that learned Court below has opined that petitioner-Bhim was having a *danda* and all the accused persons with their common intention committed house tres-pass by entering into the house of the complainant and caused simple injuries with blunt weapons as well as with sharp edged weapons to injured Rikhi Ram and Amarnath. Further perusal of MLR of Raj Kumar shows that he sustained injuries on his arm, shoulder and back side of the head. Similarly, MLR of Rikhi Ram shows that he sustained injuries in his head, left side of upper lip, right side of lower lip, right upper leg and teeth. Further MLR shows that Amarnath sustained injuries with sharp edged weapon on his upper arm. The version of complainant and injured have been duly supported by injured Amarnath and Rikhi Ram who appeared as PW3 and PW1 respectively, and they have specifically explained that injuries were sustained by them at the hands of particular accused. The version of the complainant and injured are duly corroborated by their MLRs. Further, the defence has not disclosed any reason or enmity between the parties due to which complainant would implicate Bhim (present petitioner) falsely in the present case. Further the defence has failed to bring any evidence so as to show that complainant party was the aggressor. Further no application or case is filed by the accused against the complainant party for causing alleged injuries to him till date. Hence the offences under Section 452, 323 and 324 IPC were rightly proved against all the accused persons including the present petitioner.

7. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned Court below which warrants

interference by this Court. As such, there is no merit in the present revision petition and hence, the same is hereby dismissed.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

28.01.2025
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No