



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

236

CRR-3175-2016 (O&M)
Date of decision: 21.04.2026

Sumer Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Jai Singh Yadav, Advocate for the petitioner.

Mr. Paras Talwar, Sr. DAG, Haryana.

Mr. S.S. Khurana, Advocate for respondents No.2 to 5.

VINOD S. BHARDWAJ, J. (Oral)

The present revision petition has been filed against the judgment dated 05.07.2016 passed by the Additional Sessions Judge, Rewari in Criminal Appeal No. 65 of 2015 as well as against the judgment of conviction dated 08.12.2014 and order of sentence dated 10.12.2014 passed by Judicial Magistrate First Class, Rewari in case arising from FIR No.138 dated 23.07.2010 registered under Section 323, 325 and 34 of the Indian Penal Code, 1860 registered at Police Station: Kasola, to the extent whereby the accused-respondents No.2 to 5 have been released on probation.

2. Briefly stated, the case of the prosecution is that FIR No. 138 dated 23.07.2010 was registered against the respondent–accused persons on the complaint of the petitioner herein. As per the said complaint, on 31.05.2010 at about 3:00–4:00 P.M., when the petitioner was present in his fields along with his camel, the respondent–accused persons came there and assaulted him without any provocation. It is further alleged that one



Narender, stated to be under the influence of liquor, inflicted a lathi blow on the foot of the petitioner. Thereafter, the petitioner was taken to the General Hospital, Rewari, by his son Jagdish for medical treatment. It is also a matter of record that civil litigation was pending between the parties.

3. During investigation, the respondents-accused persons were arrested. Investigation was conducted and a final report was filed.

4. On finding a prima facie case punishable under Sections 323, 325 read with Section 34 IPC, charge was framed against the accused, to which the respondents-accused persons pleaded not guilty and claimed trial.

5. The parties led their respective evidence and on consideration thereof, the Trial Court, vide its judgment dated 08.12.2014, convicted the respondent-accused persons for offence punishable under Section 323 read with Section 34 IPC. Vide a separate order of 10.12.2014, the respondents-accused persons were sentenced to undergo simple imprisonment for a period of one year with a fine of Rs.1,000/- each for commission of offence under Section 323 read with Section 34 IPC.

6. Aggrieved thereby, the respondent-accused persons preferred Criminal Appeal No. 03 of 2015, whereas the petitioner herein instituted Criminal Appeal No. 65 of 2015. The petitioner contended that the evidence on record clearly disclosed the commission of an offence under Section 325 IPC; however, the Trial Court failed to record any finding in that regard and, consequently, did not impose any sentence against the said offence. On these grounds, the petitioner had assailed the judgment of the Trial Court. Per contra, the respondent-accused persons challenged the order of conviction recorded against them even for offence under Section 323/34 IPC.



7. On consideration of respective arguments advanced by both the parties, the Additional Sessions Judge, Rewari came to the conclusion that the offence under Section 325 IPC stood proved and, accordingly, allowed the appeal preferred by the petitioner, to the above extent and recorded a conviction of the respondent–accused persons for the said offence. However, taking into account the overall conduct of the parties, the fact that they were closely related as uncle and nephew and that the occurrence appeared to be an outcome of a sudden and isolated incident, the Appellate Court held that there was no necessity to enhance the sentence already awarded under Section 323 IPC and found the same to be adequate. The Appellate Court further noticed the existence of several mitigating circumstances and, consequently, extended the benefit of probation to the respondent–accused persons under Section 360 Cr.P.C. for a period of one year. However, the convicts were directed to pay compensation of Rs.30,000/- to the petitioner. Aggrieved thereof, the present petition has been filed.

8. Learned counsel appearing on behalf of the petitioner submits that although the learned Appellate Court has recorded a finding of conviction against the respondent–accused persons for the offence punishable under Section 325 IPC, however, it has failed to impose any substantive sentence for the said offence. It is contended that, having returned a finding of guilt under the aforesaid provision, the Appellate Court was required to impose an appropriate sentence commensurate with the gravity of the offence. Learned counsel further places reliance upon the judgment of the Hon'ble Supreme Court in *State of Uttar Pradesh vs. Tribhuwan & Ors., reported as 2017(4) RCR (Criminal) 749*, to contend



that once conviction for a graver offence is recorded, the sentencing must reflect the seriousness thereof and consequently, the compensation awarded to the victim ought to have been enhanced.

9. Per contra, learned State counsel submits that the contention raised on behalf of the petitioner is misconceived and that the Additional Sessions Judge, Rewari, while recording conviction of the respondent–accused persons for the offence under Section 325/34 IPC, had specifically observed that there was no necessity to enhance the sentence already awarded under Section 323 IPC, as the same was found to be adequate in the facts and circumstances of the case. Hence, there is thus a sentence imposed as the Appellate Court has maintained the sentence already awarded by the Trial Court under Section 323/34 IPC, treating the same as sufficient to meet the ends of justice.

10. Learned State counsel further submits that, in any event, the respondent–accused persons were granted the benefit of probation by the Appellate Court after consideration of the mitigating circumstances. It is contended that the respondents–accused have successfully completed the period of probation and there is no material on record to indicate any misconduct on their part either during the probation period or thereafter. It is also submitted that the reliance placed by learned counsel for the petitioner on the judgment of the Hon’ble Supreme Court for enhancement of compensation is misplaced, inasmuch as the said aspect already stands addressed by the learned Additional Sessions Judge, Rewari. It is pointed out that while the learned Judicial Magistrate First Class, Rewari had imposed a fine of Rs.1,000/- upon the respondents–accused persons, the Appellate



Court, in its wisdom, enhanced the relief by directing payment of compensation to the tune of Rs.30,000/- to the petitioner, thereby adequately balancing the equities between the parties.

11. I have heard counsel for the respective parties and have gone through the documents appended alongwith the present petition as well as respective arguments advanced by the parties.

12. It is evident from a perusal of the record that although the Trial Court had failed to record a specific finding with respect to the commission of offence under Section 325/34 IPC, the said omission stood rectified by the First Appellate Court, i.e., the Additional Sessions Judge, Rewari, in its judgment dated 05.07.2016 passed in Criminal Appeal No. 65 of 2015. The Appellate Court, upon re-appreciation of the evidence, recorded a clear finding of conviction against the respondent–accused persons for the offence under Section 325/34 IPC. However, while dealing with the question of sentence, the Appellate Court consciously observed that there was no necessity to enhance the sentence already awarded to the respondents–accused persons under Sections 323/34 IPC, the same being found adequate in the facts and circumstances of the case. In such a situation, the only reasonable and logical inference that can be drawn is that the Appellate Court intended to maintain and apply the existing sentence as sufficient, even for the offence under Section 325/34 IPC. The absence of an express and separately worded sentence does not, as argued by the petitioner, by itself, render the order defective, particularly when the intention of the Court is evident from the tenor and substance of the judgment.

13. It is well settled that a judgment must be read as a whole and



not in a piecemeal or hyper-technical manner. When so read, the conclusion is inescapable that the Appellate Court has affirmed the adequacy of the sentence already imposed and extended its applicability to the conviction under Section 325/34 IPC as well. The impugned order, therefore, admits of no other plausible interpretation. Accordingly, the contention raised on behalf of the petitioner that no sentence has been awarded despite recording of conviction under Section 325/34 IPC is misconceived and untenable. The aspect of sentencing stands duly addressed by the Appellate Court and the sentence, as maintained, must be deemed to have been validly imposed.

14. Reference to the judgment of *State of Uttar Pradesh vs. Tribhuwan & Ors (supra)* is misconceived as the point involved therein was different. In the said case, the Supreme Court ruled that a mere punishment of fine could not be imposed for offence under Section 325 IPC and that a sentence too has to be imposed. The same is however not on the aspect whether the probation can be granted to a convict under Section 325 or not.

15. Learned counsel for the petitioner has been unable to cite any precedent or advance any cogent ground to demonstrate that the benefit of probation granted to the respondent–accused persons under Section 360 Cr.P.C. was either erroneous or liable to be withdrawn. It is also not disputed that the respondent–accused persons have successfully completed the period of probation and there is no material on record indicating any complaint regarding their conduct or behaviour during the said period. Further, there are no allegations whatsoever that the respondent–accused persons have, thereafter, been involved in any other criminal activity. In the absence of any such material or justification, no case is made out for interference with the



order granting probation. The occurrence in question pertains to the year 2010, and more than 16 years have since elapsed. In such circumstances, no useful purpose would be served by interfering with the order granting the benefit of probation at this belated stage.

16. Consequently, finding no merits, the present revision petition is *dismissed*.

17. Pending applications, if any, shall stand disposed of.

21.04.2026

Sumit Gusain

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

(VINOD S. BHARDWAJ)
JUDGE