

(2005) 05 P&H CK 0165

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Revision No. 228 of 1991

Maya Ram and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: May 18, 2005**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 323, 324

Citation: (2005) 14 CriminalCC 859**Hon'ble Judges:** S.N. Aggarwal, J**Bench:** Single Bench**Advocate:** T.P.S. Mann, for the Appellant; N.S. Bhinder, District Attorney, for the Respondent

Judgement

S.N. Aggarwal, J.

The petitioner have filed the present Revision Petition against the judgment dated 22.3.1991 by which the appeal filed by the petitioners against their conviction and sentence was dismissed.

2. As per the prosecution case on 22.12.1983 at about 7.30 A.M. Dharam Pal left his house on his bicycle for going to Pundri and thereafter to Civil Hospital, Kaithal. When he reached near the house of Ram Datt (petitioner), he was stopped by him. Said Ram Datt was armed with Gandasi. Said Ram Datt started abusing Dharam Pal. In the meantime, Maya Ram, petitioner brother of Ram Datt armed with Lathi and Shishpal petitioner Siri (partner) of Ram Datt armed with a Jaili came there. Ram Datt petitioner exhorted his co-accused to teach Dharam Pal a lesson for abusing. Simultaneously, Ram Datt gave a lathi blow which struck on the right leg of Dharam Pal. Maya Ram, petitioner also gave lathi blow on the person of Dharam Pal complainant. Dharam Pal cried which attracted Jeeta Ram, PW3, Mollu Ram PW4 and Narain Das to the scene of occurrence and they saved the complainant from the clutches of the accused. The petitioners escaped with their weapons. Said Dharam

Pal was beaten by the petitioners in furtherance of their common intention. The injured were removed to Civil Hospital, Pundri from where a message was sent to Police Station, Pundri. Accordingly, ASI Deep Chand reached there and recorded the statement of Dharam Pal on the basis of which the present case was registered. The investigation was completed and challan was presented against the present petitioners.

3. Charges under Sections 323, 324 and 325 read with Section 34 IPC were framed against the petitioners to which they pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined Dharam Pal as PW1. Sheo Nath as PW2, Jeeta as PW3, Molu Ram as PW4, Ram Kumar as PW5, Dr. Virender Kumar as PW6, Deep Chand ASI as PW7, Dr. Daljit Singh, Dental Surgeon as PW8 and Dr. B.S. Panwar as PW9 and the prosecution closed its evidence.

5. In their statements recorded u/s 313 Cr.P.C. the accused pleaded false implication and claimed to be innocent.

6. In support of their case/the petitioners did not examine any witness.

7. On the basis of this evidence, the learned trial court vide judgment dated 18.8.1989 convicted the petitioners for having committed offences punishable under Sections 323, 324 and 325 read with Section 34 IPC and they were sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- u/s 325 read with Section 34 IPC. They were also sentenced to undergo rigorous imprisonment for one year u/s 324 read with Section 34 IPC and for six months rigorous imprisonment u/s 323 read with Section 34 IPC vide judgment dated 19.8.1989.

8. The petitioners filed an appeal against this judgment which was dismissed by the learned Additional Sessions Judge, Kurukshetra on 22.3.1991.

9. Hence the present revision petition.

10. The counsel for the petitioners did not challenge the conviction of the petitioners. Even otherwise, I have gone through the statements of the prosecution witnesses and I found their statements unassailable. The courts below have given cogent reasons for recording the conviction of the petitioners with which I fully agree. I see no plausible reason to differ with the reasonings given by the courts below. The conviction of the petitioners is based on reliable, trust-worthy and unimpeachable evidence brought on record. Therefore, the conviction of the petitioners is confirmed.

11. It was submitted that the occurrence has taken place on 22.12.1983 and the petitioners were convicted on 18.8.1989 i.e. after more than five years. The appeal was dismissed by the court of learned Additional Session Judge on 22.3.1991. and since then the instant revision petition is pending in this court. It was further

submitted that no other offence has been proved against the petitioners and, therefore, they are the first offenders. It was also submitted that the petitioners have already undergone ten days of imprisonment.

12. Further incarceration of the petitioners after elapse of more than 21 years will defeat the ends of justice. This will also make them hardened criminals and will strengthen the inimical feelings between the two parties which will disturb peace in the society. The fact that the petitioners had faced agony and trauma of this criminal prosecution for such a long period is a befitting punishment for them. In such like cases, the principles of natural justice and equity are also to be kept in view. The petitioners must have lived every moment under extreme emotional and mental stress and strain and under a fear psychosis. Therefore, the ends of justice would be fully met if the petitioners are released on probation.

13. Having regard to the peculiar facts and circumstances of this case and the nature of the offence committed by the petitioners, I feel it expedient to release the petitioners on probation of good conduct on their furnishing bonds in the sum of Rs. 10,000/- with one surety in like amount, each to the satisfaction of Chief Judicial Magistrate, Kaithal for a period of one year to appear and receive sentence when called upon to do so and in the meantime to keep peace and be of good behaviour. They are also burdened with costs amount of Rs.5000/- each inclusive of fine already imposed upon them. In default of payment they will undergo rigorous imprisonment for a period of three months. The amount be deposited by the petitioners within three months from today. If the fine amount is deposited, the entire amount will go to Dharam Pal, injured by way of compensation.

13. This Criminal Revision is disposed of in the above terms.