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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-802-2018****Reserved on: 20.02.2024****Pronounced on:22.02.2024**

Manjit Kaur

.....Petitioner

Versus

Gurdeep Singh @ Fauji and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRARPresent: Ms. Meenu, Advocate
for the petitionerMr. Arshdeep Singh Brar, Advocate
for respondents no. 1 and 2

Mr. Sandeep Kumar, DAG, Punjab

Harpreet Singh Brar, J. (Oral)

1. The present revision petition is preferred against the judgment dated 04.10.2017 passed by learned Additional Sessions Judge, Moga vide which the judgment of conviction dated 01.09.2016 passed by learned Judicial Magistrate Ist Class, Moga in FIR No. 13 dated 31.01.2013 under Sections 323 and 325 read with 34 of the IPC registered at Police Station City South Moga, was set aside to the extent of charge under Section 325 read with 34 of the IPC and respondents-accused were released on probation and ordered to pay Rs. 5000/- each to the petitioner-complainant.

2. Briefly, the facts are that on 31.01.2013, at about 7:30 AM, the petitioner was cleaning the drain in front of her house when respondent no.1 and his wife (respondent no. 2) came to the spot and forbade her to pass drainage water through there. They also told the petitioner that they will throw the garbage from the drain in front of her house. Pursuant to the same, hot words were

exchanged and respondent no. 2 caught the petitioner from her hair while respondent no. 1 dealt fist blows to her. Respondent no. 1 also gave kick blows to the petitioner that landed on her left leg, above the knee. The petitioner raised hue and cry causing people from the neighbourhood to gather at the spot and rescue her from the respondents-accused.

3. On the basis of material available on record, the learned trial Court convicted the respondents-accused vide judgment dated 01.09.2016 and sentenced them to undergo rigorous imprisonment for 1 year under Section 325 read with 34 of the IPC and rigorous imprisonment for 6 months under Section 323 read with 34 of the IPC. Aggrieved by the same, the respondents-accused preferred an appeal before the learned lower Appellate Court, which was partly allowed vide judgment dated 04.10.2017 whereby the respondents were acquitted of charges under Section 325 read with 34 of the IPC and released on probation with respect to conviction under Section 323 read with 34 of the IPC. The respondents were also ordered to pay Rs. 5000/- each to the petitioner as compensation.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was medico legally examined by PW6- Dr. Harsh Sharma on 31.01.2015 at about 9:15 AM and the following injuries were recorded on her person:

“1.Reddish abrasion 1 x 0.5 cm on the occipital area of head.

2.Broken upper side incisor tooth. Fresh bleeding was present on the gums.

3. Patient was complaining of pain in the legs and thigh. No fresh external injury was visible.

4.Reddish abrasion 0.5 x 0.4 cm on the left ala of nose. Fresh bleeding was present.”

Based on the opinion rendered by the PW3- Dr. Veena Gupta, Dental Surgeon, injury no. 2 was declared grievous as the upper central and lateral incisors of the petitioner were found missing from the socket. While injuries no. 1,3 and 4 were declared simple, all injuries were stated to be caused with a blunt weapon. On the same day, around 2:15 PM, the petitioner made a statement to the police but curiously, failed to mention that her teeth were broken due to the fist blow dealt by respondent no. 1. In fact, no mention of broken teeth was made by her statement at all. During her examination-in-chief, the petitioner deposed that the loss of teeth was caused by the fist blows dealt by respondent no 1. However, in her cross-examination, she categorically stated that her teeth broke due to the fall on surface during scuffle. Therefore, the prosecution has failed to prove beyond reasonable doubt that the petitioner lost her teeth due to the fist blows dealt by respondent no. 1. As such, offence under Section 325 of the IPC is not made out and the learned lower Appellate Court has correctly appreciated the facts to set aside conviction of the respondents to this extent.

5. As far as the question of probation is concerned, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused. A Co-ordinate bench of this Court in

Nasri v. State of Haryana 2023(3) Law Herald 2203, speaking through Justice Arun Monga, made the following observations:

“11.2. Objectives and principles of criminal law as envisioned in the provision ibid, apart from deterrence against committing crime against society, are inter-alia focused on the reformation of offenders, which inheres the concept of probation. Modern criminal justice system often aims to balance punishment with rehabilitation, emphasizing the potential for positive change in individuals who have committed crime. The goal of criminal law extends beyond mere punishment. While punishment serves to deter and hold individuals accountable for their actions, there is a growing recognition of the importance of addressing the underlying factors that contribute to criminal behaviour. This perspective emphasizes the potentials of offenders to reform and reintegrate into society as law-abiding citizens. Probation is one of the mechanisms used to achieve this reformation objective. In certain cases, certain offenders may be asked to remain under community supervision rather than being incarcerated. During such probation period, the offender can be put to follow certain conditions, such as regular reporting to a probation officer, participating in counselling or treatment programs and maintaining employment or education. The aim is to provide support, guidance and opportunities for the offender and to address the root causes of their criminal behaviour and develop positive life skills. Close monitoring and guidance provided during probation can help the offender make positive changes in their life and reduce the likelihood of re offending.”

6. In view of the facts and circumstances of the case, this Court does not find any perversity or illegality in findings recorded by the learned lower Appellate Court which warrants interference by this Court. Therefore, the present revision petition is hereby dismissed.

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

22.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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