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

CRA-S-518-SB-2003

Date of Decision: 29.07.2015

VIJAY KUMAR GOLCHA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Navkiran Singh, Advocate
for the appellant.

Mr. Arshdeep Singh Kler, DAG, Punjab.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J. (Oral)

1) Appellant-Vijay Kumar Golcha has assailed judgment of conviction and order of sentence dated 26.02.2003 passed by Additional Sessions Judge, Fast Track Court, Ferozepur vide which he was convicted and sentenced to undergo rigorous imprisonment for 6 months along with fine of Rs.500/- under Section 323 IPC. In the event of default of payment of fine, he was further to undergo rigorous imprisonment for 2 months for the injuries caused to the person of Bikram Singh. The same sentence was passed in respect of injuries caused to Sardool Singh. Both the sentences were ordered to be run concurrently.

2) Learned counsel for the appellant submits that as per

deposition of Dr. Manohar Lal Madan, PW-4, the injuries caused to injured Bikram Singh and Sardool Singh were found to be simple in nature and were caused by blunt weapon.

- 3) Learned counsel craves indulgence of the Court for granting probation in view of clean antecedents of the appellant as well as keeping in view the age of the appellant. Further it has been argued that the appellant has faced protracted trial and has undergone agony of appeal as well. Trial Court while awarding sentence has denied the prayer for grant of probation without recording any reasons and satisfaction. Trial Court has observed that in view of seat of injuries, Court was not inclined to consider it as fit case for grant of benefit of probation.
- 4) During trial, the opinion of the doctor was disbelieved. The injuries on the person of Bikram Singh were not found to be of that nature which may even draw inference for applicability of offence under Section 307 IPC. The doctor did not find any seriousness in the injuries. Ultimately trial Court convicted appellant for the offence under Section 323 IPC only.
- 5) Apparently, prosecution was lodged by way of private complaint, that too after 23 days of the occurrence. In fact, initial version started with lodging of DDR which was ultimately found to be without any basis. The injuries inflicted on the person of accused side were not explained which according to learned counsel for the appellant amounted to suppressing origin and genesis of the occurrence.

- 6) Since there was no cross version emerging on record, nor any such case came to be registered on the basis of DDR lodged by the complainant side, therefore, lodging of criminal complaint that too after 23 days of the occurrence coupled with simple injuries on the person of complainant party, was opined to be non-serious in nature and attracted only culpability in terms of Section 323 IPC.
- 7) This Court is of the view that trial Court should have considered prayer for grant of probation of the appellant in these mitigating circumstances. Appellant is stated to be 65 years of age having young marriagable daughter. The incident in question took place in month of July, 1997. Appellant has faced the agony of protracted trial and appeal for the last 18 years.
- 8) Looking to the antecedents of the appellant at this stage, this is found to be fit case where indulgence of the Court can be given to order release of the appellant on probation of good conduct on his furnishing adequate bonds with one surety in the like amount for a period of 6 months for maintaining peace and good conduct, failing which the appellant shall have to undergo the remaining period of the sentence. Requisite bail bonds surety bonds be executed to the satisfaction of CJM, Ferozepur.

Disposed of.

July 29, 2015
SwarnjitS

(RAJ MOHAN SINGH)
JUDGE