

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

Criminal Revision No.2398 of 2005

Date of Decision: August 26, 2015

Balwan Singh & Anr.

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Munish Gupta,Advocate,
for the petitioners.

Mr.Kuldeep Tiwari, Addl.AG, Haryana.

1. Whether Reporters of Local papers may be allowed to see the judgment? Yes

2. To be referred to the Reporters or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

Naresh Kumar Sanghi, J.(Oral)

Challenge in this criminal revision petition is to the judgment dated 14.12.2005 passed by learned Additional Sessions Judge, Bhiwani, whereby the appeal filed by the petitioners challenging their conviction and sentences for the offences punishable under Sections 186, 332 and 353, IPC, recorded by learned Sub-Divisional Judicial Magistrate, Loharu, was dismissed.

At the very outset learned counsel for the petitioners submits that in view of the well-reasoned judgments of both the Courts below, he does not want to challenge the conviction of

the petitioners. However, he submits that the occurrence had taken place on 29.06.1998; the petitioners remained on bail during pendency of trial, appeal and the present revision petition but they did not misuse the said concession; the occurrence had taken place when the informant/complainant had gone to the village of the petitioners for recovery of loan disbursed to the family members of the petitioners; not even a single injury was received by the aggrieved persons; the only allegation was that the aggrieved persons were physically thrashed and their dresses were torn; none of the petitioners is a previous convict and that the petitioners have already suffered the agony of trial/appeal and the present revision petition for more than 17 years. He also points out that the petitioners have also suffered incarceration for 24 days each and that the fine imposed by learned trial Court was deposited by the petitioners before learned trial Court.

In view of the above, he prays for releasing the petitioners on probation. To buttress his submissions, learned counsel for the petitioners has placed reliance on a judgment delivered by this Court in the matter of **Ved Parkash vs. State of Punjab**, 2003(2) R.C.R.(Criminal) 823.

Learned counsel for the State, though not controverted the factual aspects explained by learned counsel

for the petitioners, yet he submits that the sentences awarded by learned trial court are adequate and as such, there is no ground for reducing the sentence. He has also produced the affidavits of the Superintendent, District Jail, Bhiwani, showing the period of incarceration suffered by the petitioners which are taken on record.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

It is an admitted position that there was no pre-existing enmity of the petitioners with the aggrieved persons. The occurrence had taken place at the spur of moment when the aggrieved persons had gone to the village of the petitioners for persuading borrowers to repay the loan to the bank. It is conceded position that the aggrieved/informant had not received injuries. The aggrieved persons were thrashed and their clothes were torn. Each of the petitioners has suffered incarceration for 24 days. The amount of fine was deposited before learned trial Court. The perusal of the affidavits produced by learned counsel for the State would spell out that none of the petitioners is a previous convict. They have already faced the agony of the present criminal litigation for

approximately 17 years.

In view of the totality of the facts and circumstances of the case and taking into consideration the ratio of the judgment delivered by this Court in the matter of **Ved Parkash's** case (supra) this Court is of the considered opinion that the petitioners, Balwan and Balbir, can be released on probation.

As a sequel to the above discussion, this criminal revision petition is partly allowed. The impugned order of sentence is modified and the petitioners are ordered to be released on probation for a period of two years from the date they furnish the indemnity bonds in the sum of ₹50,000/- (Rupees fifty thousand only) with one surety in the like amount each to the satisfaction of learned trial Court. Indemnity bonds shall be furnished by the petitioners within a month of passing of this order. Each petitioner shall deposit ₹5,000/- (₹5,000/- x 2 = ₹10,000/-) before learned trial Court as litigation expenses. Separate undertaking by each one of them shall also be furnished to the effect that they shall undergo remaining part of their substantive sentences if called upon to do so by a Court of competent jurisdiction during the period of their probation, if they violate the terms and conditions of the indemnity bonds to be furnished by them.

It is further ordered that during the period of

probation, the petitioners shall keep peace, not commit any other offence and be of good behaviour.

August 26, 2015
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(Naresh Kumar Sanghi)
Judge