

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

**Crl. Revision No.188 of 2015 (O&M)
Date of decision : 27.02.2015**

Jujhar Singh and another

...Petitioners

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. H.R. Bhardwaj, Advocate,
for the petitioners.

RITU BAHRI, J.

Challenge in this petition is to the judgment dated 20.08.2014 passed by the Additional Sessions Judge, Sangrur, whereby on an appeal filed by accused-respondent Nos. 2 and 3 against the judgment of conviction and order sentence dated 11.11.2011 passed by the Chief Judicial Magistrate, Sangrur, they were released on probation.

The FIR was registered on the basis of statement made by Jujhar Singh-complainant to the effect that he was resident of Mohalla Bhaika, Sunam and was running a workshop opposite trolley union, Sunam. They were four brothers namely Jeet Singh, Jatinder Singh, Jujhar Singh (complainant) and Jagtar Singh. Accused-respondent No.2, Jeet Singh was eldest among them. Their parents were residing separately at Jawandha Road Crossing, Sunam and Jagtar Singh was running a workshop in the same house. On 07.06.2002, at 5.00 p.m., he went to the workshop of Jagtar Singh. His brother Jatinder Singh was already sitting there and they were talking to each other. In the meantime, a red coloured Maruti car, owned by

his brother Jeet Singh came there, out of which, Jeet Singh, armed with kirpan, Khushwant Singh, armed with handle of spade (*kahi*), Gurpreet Singh, armed with hockey stick and another boy armed with handle of spade, alighted. Jeet Singh raised a lalkara to teach them a lesson for running a shop in the house of their father. Thereafter, all of them entered the shop. Gurpreet Singh gave two hockey blows, which hit on the right arm and right wrist of Jagtar Singh. Another blow of hockey hit the back of Jagtar Singh. Khushwant Singh gave two blows with the handle of spade, which hit left arm and left leg (below the knee) of Jagtar Singh. The unidentified boy gave a blow with handle of spade, which hit on the back of Jagtar Singh. Jeet Singh gave two kirpan blows to the complainant, which struck on his left little finger and neck. Gurpreet Singh gave two hockey blows on the left shoulder and left thigh of the complainant. Khushwant Singh also gave two blows with the handle of spade, which struck on middle of chest and left knee of the complainant. The unidentified boy gave two blows with handle of spade, which hit right and left shoulder of the complainant. The injured raised an alarm, upon which, all the assailants fled away along with their respective weapons. In this background, the FIR was registered. On completion of investigation, challan was presented.

The trial Court, vide order dated 13.12.2002, committed the case to the Court of Sessions. Thereafter, the Additional Sessions Judge, Sangrur, vide order dated 11.01.2003 held that the offence under Section 450 IPC was not made out and the remaining offences were triable by the Magistrate. Accordingly, charge under Sections 452/326/325/324/323/34 IPC was framed against accused and thereafter, the case was transferred to the Court of Chief Judicial Magistrate, Sangrur for trial. On receipt of the case, the trial

Court proceeded to record the evidence of prosecution. In order to prove its case, the prosecution examined eight witnesses and thereafter, the evidence of prosecution was closed.

Statements of accused under Section 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same and pleaded false implication. In defence, the accused examined as many as twelve witnesses.

The trial Court, after going through the evidence led by the parties, convicted the accused under Sections 452/324/323 read with Section 34 IPC and sentenced them accordingly vide judgment dated 25.05.2010. However, in appeal, the Sessions Judge, Sangrur, vide judgment dated 05.08.2011 set aside the said judgment of conviction and remitted the case back to the Court of Chief Judicial Magistrate with a direction to pass the judgment in consonance with the provisions of Section 354 (4) Cr.P.C.

Accused Gurpreet Singh being a juvenile was tried separately by the Court of Principal Magistrate, Juvenile Justice Board, Sangrur. Consequently, the Chief Judicial Magistrate, Sangrur, vide judgment dated 11.11.2011, acquitted accused-rerspondent Nos. 2 and 3 for the offence under Section 326 IPC, but convicted them for commission of offences punishable under Sections 452/323/324/34 IPC and sentenced as under:-

Name of Convict	Offence	Sentence
Jeet Singh	U/S 452 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.
	U/S 324 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.
	U/S 323/34 IPC	To undergo rigorous imprisonment for a period of three months.

Khushwant Singh	U/S 452 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.
	U/S 324/34 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.
	U/S 323	Rigorous imprisonment for a period of three months.

In appeal, the additional Sessions Judge, Sangrur, vide judgment dated 22.08.2014 released the accused-respondent Nos. 2 and 4 on probation of good conduct for one year on their furnishing of probation bonds in the sum of Rs.10,000/- with one surety in the like amount each, with an undertaking to keep peace and be of good behaviour during the intervening period and to appear in the Court as and when directed to receive the sentence of imprisonment. The amount of fine, deposited by them before the trial Court was treated as costs of proceedings. They were further directed to pay compensation to the tune of Rs.15,000/- to the injured. Feeling aggrieved, Jujhar Singh and Jagtar Singh-petitioners (complainant and injured respectively) have filed the present petition challenging the order of probation.

Heard.

The dispute in the present case was between the real brothers and benefit of probation has been extended as none of the accused was carrying any criminal background. Moreover, while releasing accused-respondent Nos. 2 and 3 on probation, compensation of Rs.15,000/- was given to the injured in equal shares.

Reference at this stage, can be made to a judgment delivered by this Court in **Smt. Ram Dai Vs. Sudha Chand** 1991(1) RCR (Criminal) 320, where an accused was convicted under Sections 451 and 354 IPC and the benefit of probation was extended to him under Section 360 of the Criminal

Procedure Code. As per Section 360 of the Criminal Procedure Code, the benefit of probation can be extended when an offence is punishable with fine only or with imprisonment for seven years or less.

In view of the judgment delivered by this Court in **Smt. Ram Dai's** case (supra), this Court is of the view that, no illegality, much less irregularity, has been found in the impugned judgment, warranting interference by this Court.

Resultantly, the present petition stands dismissed.

(RITU BAHRI)
JUDGE

27.02.2015
ajp