

**Sr. No. 212
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No. 2347 of 2015 (O&M)

Date of Decision: 07.09.2015

Balkar Singh

--Petitioner

Vs

Lakhwinder Singh and others

--Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Ranjodh Singh Sidhu, Advocate,
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned order of sentence dated 09.12.2014 passed by learned Sub Divisional Judicial Magistrate, Khadur Sahib whereby convicts were granted the benefit of probation under the relevant provisions of Probation of Offender's Act, 1958, instant criminal revision petition has been filed at the hands of the complainants, for setting aside the impugned order of sentence.

Brief facts of the case, as recorded by the learned trial Court in para 1 of the impugned judgment of conviction are that on 15.06.2009 at about 3/4 pm the complainant was working in his fields. In the meantime Gurjant Singh armed with Kirpan, and Jaspal Singh armed with sword, Lakhwinder Singh armed with stick, Sarabjit Singh armed with stick, Gurdit Singh armed with stick, Paramjit Kaur

empty handed came in his fields and attacked the complainant. Thereafter, Paramjit Kaur raised a lalkara to caught hold the complainant and he should not be allowed to go alive. On the lalkara of Paramjit Kaur, Gurjant Singh attacked the complainant with his sword which hit on the ankle joint of his right leg as a result of which, the complainant fell down on the ground and in that process Lakhwinder Singh, Gurdit Singh and Sarabjit Singh started beating the complainant with sticks, thereupon, the complainant raised alarm 'Marr Ditta Marr Ditta'. On hearing their noises, Paramjit Kaur, wife, and Jagtar Singh brother of the complainant came at the spot who witnessed the whole incident. Thereafter, all the accused fled away from the spot along with their respective weapons. Later on, Karam Singh also came at the spot. The complainant was taken to the Civil Hospital, Mianwind by Karam Singh. The complainant reported the matter to the police of the police station, Verowal, but no action was taken by the police. Hence, the complaint was filed.

In the preliminary evidence, complainant Balkar Singh himself appeared as CW1. He further examined Kashmir Kaur as CW2 and Karam Singh as CW3. He also examined Dr. Ramesh Kumar as CW4 who proved on record MLR report EX CW4/A and closed the evidence.

After hearing the learned counsel for the parties, going through the evidence on record, the learned trial Court came to the conclusion that the complainant has succeeded to bring home the guilt of the accused-respondents. Accordingly, the accused were held guilty for the offences punishable under Sections 323, 324 read

with Section 149 of the IPC and they were convicted vide judgment of conviction dated 09.12.2014. However, taking into consideration of peculiar facts and circumstances of the case and after hearing learned counsel for the parties, on sentence, the learned trial Court granted the benefit of probation to the convicts vide impugned order dated 09.12.2014. Hence, this petition at the hands of the complainant against the impugned order of sentence, whereby convicts were released on probation.

Learned counsel for the petitioner submits that the respondents-accused were not entitled for the benefit of Probation of Offender's Act. There were no such mitigating circumstances available in favour of the accused which might entitle them for benefit of probation illegally granted by the learned trial Court. He prays for allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, instant one has not been found to be a fit case warranting interference at the hands of this Court, while exercising its revisional jurisdiction, which itself is a limited one. To say so, reasons are more than one, which are being recorded hereinafter.

A bare reading of the impugned order dated 09.12.2014 passed by learned Sub Divisional Judicial Magistrate shows that he has found the convicts-respondents entitled for benefit of the provisions contained under Section 4 (1) of the Probation of

Offender's Act, 1958. During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or jurisdictional error in the impugned order passed by the learned trial Court. Having said that this Court feels no hesitation to conclude that the learned trial Court committed no error of law while passing the impugned order granting benefit of probation to the convicts-respondents and the same deserves to be upheld.

Learned trial Court has not been found to have exceeded its jurisdiction while passing the impugned order. Sufficient reasons have been assigned by the learned trial Court while passing the impugned order. Further, nothing has been pointed out on behalf of the petitioner so as to convince this Court to take a different view than the one taken by the learned Court so as to interfere, while exercising its revisional jurisdiction. Further, discretion exercised by the learned trial Court while granting the benefit of probation to the convicts-respondents has not been found suffering from patent illegality. In this view of the matter, it can be safely concluded that the learned trial Court was fully justified on facts as well as in law to pass the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present criminal revision petition is misconceived, bereft of merit and without any substance.

Thus, it must fail. No case for interference has been made out.

Resultantly, with the above said observations made, the instant criminal petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

07.09.2015
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