

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRR-3108-2015

Date of decision: 06.10.2015

**Mahinder Singh**

... Petitioner

**Vs.**

**Surjeet and others**

... Respondents

**CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK**

Present: Ms. Vandana Sharma, Advocate  
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

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**RAMESHWAR SINGH MALIK, J.**

Feeling aggrieved against the impugned judgment dated 16.05.2015 passed by learned Additional Sessions Judge, whereby appeal of the petitioner was dismissed on merits and also in default in the absence of learned counsel for the appellant, upholding the impugned judgment dated 19.07.2014, passed by learned Judicial Magistrate 1<sup>st</sup> Class, acquitting respondents No.1 to 5 of the charges framed for the offences punishable under Sections 325, 506, 147, 149 of the Indian Penal Code ('IPC' for short), who after conviction for the offences punishable under Sections 323 and 143 IPC, were released on probation of good conduct for a period of six months on furnishing probation bond of Rs.10,000/-, complainant has approached this Court, by way of instant criminal revision petition.

Brief facts of the case, as recorded by learned trial Court in para 2 of its judgment, are that on 18.06.2008, a doctor rooka was received at police station to the effect that Mahender Singh son of Sh. Rati Ram, caste Jat, resident of Indri had been got admitted into G.H. Sohna, with the history of assault. Upon this information, Head Constable Bhram Parkash along with Constable Sunder Singh went to G.H. Sohna for the purpose of investigation and thereupon took the information of the concerned doctor qua fitness of the injured for making statement and thereupon the concerned doctor declared him unfit for making statement and also stated that the injured had already been referred to G.H. Gurgaon. Thereupon he went to G.H. Gurgaon and concerned doctor declared him fit for making statement and thereupon statement of injured Mahender was recorded to the effect that on 18.06.2008 at about 9.00 A.M., complainant was going from his new house to old house on his vehicle bearing No.HR27A-7258 at his village when he started logging at his old house, then accused No.1 Surjeet asked him as to where he was going. Thereupon, complainant told him that he was going to attend the panchayat regarding the dispute between him and Prem Singh. Then accused Surjeet asked him not to go to attend the panchayat but while the complainant told him regarding his right to attend the panchayat then Surjeet became angry and he asked his son Vikash to prevent him from going to the panchayat. Thereupon accused persons namely Vikash, Rajiv, Sanjeev, Partham, Rajpal and Surjeet having lathi, iron rod, sticks in their hands attacked upon the complainant and caused him injuries. Accused Vikash was having a country made pistol in his hand and he fired two bullets upon him.

One hit him on the right leg and second hit on his vehicle. Rajiv hit him with kicks and punches. Sanjiv hit him on left eye with lathi and thereupon he fell down on the ground. The Partham hit him on the left with the lathi. Surjeet also gave him kicks and punches. When complainant shouted for help, them Dharmender son of Sh. Giriraj and Prem Singh son of Sher Singh came on the spot and rescued him from the clutches of accused persons. While leaving the spot, accused persons threatened to kill him in case they would find another opportunity. Thereafter, tehrir was sent for the registration of FIR and hence FIR for the commission of the offences punishable under Section 323, 506, 147, 148, 149 of the Indian Penal Code ('IPC' for short) and Sections 25, 54, 59 of Arms Act, was registered. Investigation of the case was conducted. Statement of the witnesses were recorded. Site plan was prepared. Thereafter upon receiving report of the concerned doctor regarding fracture, the offence punishable under Section 325 IPC was added. Accused persons were arrested and thereupon released on bail as per Court order. Further during investigation, Rajpal son of Tej Singh was not found involved in the occurrence and even no offence punishable under Section 25, 54, 59 of Arms Act. Hence against remaining accused persons, the police report was submitted.

The challan having been presented against the accused, copy thereof along with documents attached therewith, was supplied to the accused, as required under Section 207 Cr.P.C. A prima facie case was found and accordingly, the accused were charge-sheeted by the learned trial Court for the offences punishable under Sections 323, 325, 506, 147, 148, 149 IPC

and Sections 25, 54, 59 of Arms Act. Accused pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined as many as 05 PWs, besides producing on record other relevant documentary evidence. On conclusion of the prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C. All the incriminating material brought on record, was put to the accused. They denied the allegations levelled by the prosecution, alleged false implication and pleaded complete innocence. However, accused did not lead any defence evidence.

After hearing the learned counsel for the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the prosecution has been able to prove its case only for commission of offences punishable under Section 323, 143 IPC. Accordingly, the accused were convicted of the charges framed under Section 323, 143 IPC, vide impugned judgment dated 19.07.2014 but they were acquitted of the charges framed under Section 325, 506 IPC. Thereafter, vide order of sentence of even date i.e. 19.07.2014, the accused were released on probation for a period of six months on their furnishing probation bond in the sum of Rs.10,000/-.

Dissatisfied with the impugned judgment, whereby the accused were released on probation, complainant filed an appeal for appropriate sentence in proportionate to the nature of offence, which also came to be dismissed by learned Additional Sessions Judge, vide impugned judgment dated 16.05.2015. Hence this criminal revision petition, at the hands of

complainant.

Learned counsel for the petitioner submits that the complainant brought cogent and convincing evidence on record, which was sufficient to record conviction of the accused persons. However, since the learned Courts have failed to appreciate the evidence in correct perspective, the impugned judgments have resulted in miscarriage of justice. He prays for setting aside the impugned judgments, by allowing the present criminal revision petition.

Having heard the learned counsel for the petitioner, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, noticed hereinabove, 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 combined reading of both the impugned judgments would show that the learned Courts have discussed, considered and appreciated each and every relevant aspect of the matter, before arriving at their respective judicious conclusions. Oral as well as documentary evidence were appreciated in the correct perspective. Having said that, this Court feels no hesitation to conclude that the learned Courts, while acquitting the accused under Sections 325, 506, 147 & 149 IPC and after convicting them under Sections 323 & 143 IPC and thereafter granting them the benefit of probation, have not exceeded their jurisdiction in any manner. No prejudice

has been shown to have been caused to the petitioner, by granting the benefit of probation to the respondents-convicts.

It is so said, because conviction of respondents No.1 to 5 has been upheld and they have only been granted the benefit of probation, because of which the impugned judgment has not been found suffering from any patent illegality. It is the settled proposition of law that this Court has no jurisdiction to re-appreciate the evidence, until and unless the impugned judgment is found manifestly wrong and grossly as well as palpably unjust.

The Hon'ble Supreme Court, about four decades ago, in its judgment in the case of **Duli Chand Vs. Delhi Administration, 1975 CriLJ 1732**, held that the jurisdiction of the High Court in a criminal revision is severely restricted and it cannot embark upon re-appreciation of evidence. The abovesaid view taken by this Court also finds support from two judgments of this Court in **Ram Niwas Vs. State of Haryana, 1996 (3) CRR-281-2014 (O&M) RCR (Crl.) 374** and **Sukhdev Kumar Vs. State of Punjab and another, 2012 (3) RCR (Crl.) 158**. The relevant observations made by this Court in paras 11 & 12 of **Sukhdev Kumar's** case (supra), which can be gainfully followed in the present case, read as under: -

*“After considering the above part of the judgment keeping in view the given fact situation of the case, I have no hesitation to conclude that no illegality has been committed by the learned Additional Sessions Judge, Jalandhar, while granting the probation to the respondent Vijay Kumar. The view taken by this court also finds support from the judgments rendered in*

***Dalbir Singh Vs. State of Haryana, AIR 2000 SC 1677, State of Punjab Vs. Kuldip Singh and others, 2007(2) RCR (CrL) 670 (DB) and Hanuman Vs. State of Haryana, 2007 (3) RCR (CrL) 488.***

*The ratio of the judgments, noted above, is that if the court forms the opinion that it is just and expedient to release the offender on probation for his good conduct regard being had to the circumstances of the case and the nature of the offence, the offender can be released on probation, it being a beneficial piece of legislation. In the present case, the occurrence took place on a very petty issue with any conspiracy for committing the offence. Further, the object of the statute is to give a chance to the offender for reforming so that he may become a useful and responsible citizen. In fact, release of probationer on bond with or without sureties on probation of good conduct is, in nature, a preventive measure which gives to the offender an opportunity of reformation within the community itself.”*

During the course of hearing, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality apparent on the record of the case, so as to convince this Court to take a different view than the one taken by learned Additional Sessions Judge. The learned Appellate Court has been found factually correct and legally justified, in upholding the judgment of trial Court. In this view of the matter, it can be safely concluded

that learned Additional Sessions Judge committed no error of law, while passing the impugned judgment 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 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 abovesaid observations made, instant criminal revision petition stands dismissed, however, with no order as to costs.

**[ RAMESHWAR SINGH MALIK ]**  
**JUDGE**

06.10.2015  
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