

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR 3151 of 2015

Date of Decision: August 31, 2015

Amit Kataria

.....Petitioner

Vs.

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. K.B. Raheja, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

The petitioner is a complainant who had filed a private complaint against five accused persons alleging that he was beaten and dispossessed from the premises despite there being an injunction order in his favour. Pursuant to the private complaint, on the basis of trial, the accused were convicted under Sections 323, 382 and 506 IPC. Respondent No.2 has preferred an appeal against the conviction order. The said appeal is pending. During the pendency of the appeal, the sentence of imprisonment of respondent No.2 has been stayed and on an application filed by respondent No.2, the conviction of respondent No.2- Subhash Chander has been stayed.

The Appellate Court vide order dated July 13, 2015 has stayed the conviction of respondent No.2 Subhash Chander till the disposal of the appeal.

Learned counsel for the petitioner has submitted that respondent no.2 is working as a Government employee in the Education Department and that the conviction cannot be stayed merely on the ground that the services of respondent No.2- convict are likely to be terminated on the basis of conviction order. Counsel relies upon **Suresh Khandelwal Vs. State of Rajasthan**, 2015 (1) RCR (Crl.) 70, **Mahesh Kumar Dwivedi Vs. State of Rajasthan**, 2014 (8) RCR (Crl.) 78, **Shyam Narain Pandey Vs. State of UP**, 2014 (3) RCR (Crl.) 848 and a judgment of Chhattisgarh High Court in **Laxmi Narayan Sao and others Vs. State of Chhattisgarh**, 2015 (2) RCR (Crl.) 730, wherein it has been observed that the conviction of an accused cannot be suspended on the ground that he will lose his job and deprived of source of livelihood.

I have heard learned counsel for the petitioner and carefully gone through the facts and circumstances of the case. The lower Appellate Court has exercised the jurisdiction of staying the conviction order arising out of a private complaint. The appeal is not likely to be decided in near future. It is not a general rule that in all cases of conviction irrespective of the private or State case, there is bar of staying the conviction during the pendency of the appeal. The chances of appeal being allowed or probation being granted or any other lesser relief being granted, cannot be ruled out at

this stage. It is also a settled principle of law that mere conviction order against the person is not sufficient enough to remove him from service. It is the conduct which is required to be scrutinized before any adverse order is passed on account of convict leading to his conviction. Since the matter has arisen out of a private complaint, the petitioner in the garb of the private complaint seeks the restoration of the possession. There is clash of interests amongst the complainant and the convicts. The lower Appellate Court appears to have not acted illegally in protecting the rights of respondent No.2 during the pendency of the appeal which is yet to be decided. Besides this the order passed by the trial Court is an interim order. Scope of interference in the interim order by a revisional Court is very limited. No ground is made out for interference in the interim order

Dismissed.

August 31, 2015
sanjay

(M.M.S.BEDI)
JUDGE