

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

**CRR No. 3542 of 2014 (O&M)
Date of Decision: 15.09.2015**

Amrit Pal Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. A.D.S.Sukhija, Advocate
for the petitioner.

- 1. To be referred to the Reporters or not?**
- 2. Whether the judgment should be reported in the Digest?**

RAMESHWAR SINGH MALIK J.

Present criminal revision petition, at the hands of the complainant, is directed against the impugned judgment dated 2.6.2014 passed by the learned Additional Sessions Judge, SAS Nagar, (Mohali), whereby conviction of respondents No.2 and 3 was upheld, but they were granted the benefit of probation.

Brief facts of the case, as recorded by the learned Additional Sessions Judge, in para 5 and 6 of the impugned judgment, are that on 16.6.2000, on receipt of wireless message at the police station, ASI Som Nath reached Civil Hospital, Kharar, where injured Amritpal Singh and Harpal Kaur were stated to be

admitted. On an application filed by him, injured Amritpal Singh was declared unfit to make statement and further on the second application, it was reported that Harpal Kaur was not admitted in the hospital. Harpal Kaur was not found present at Mullanpur Garibdass also. On 17.6.2000, ASI Som Nath again visited the said hospital. On an application filed by him, injured Amritpal Singh was reported to have left the hospital. Then ASI Som Nath visited the house of Amritpal Singh at village Mullanpur Garibdass where Amritpal Singh met him and made a statement that he was residing at Mullanpur, Garibdass along with his brohters and other family members. He was unmarried and was working as store-keeper with Chandigarh Transport Undertaking, Chandigarh. On 16.6.2000, there was holiday and he was cutting Kikkar tree standing in their Shamlat land. His sister-in-law Harpal Kaur wife of Jagbir Sigh was also present near him. At about 9:30 AM, accused Narinder Kaur, Amrik Singh and Gurvinder Singh came there and stated that the said land was of their share and he should not cut the kikkar tree from that land. He replied that kikkar tree was belonging to him and was standing on their land. Thereupon, his brother Amrik Singh gave a gandasi blow by its sharp side hitting on his head, just above the left ear. Accused Gurvinder Singh gave a blow by reverse side of Neja hitting on his left foot. Narinder Kaur gave a Danda blow carried by her in her right hand hitting on his right arm. She gave another danda blow hitting his left eye. He fell down and thereafter, accused Amrik Singh gave a gandasi blow by its sharp side hitting on left knee of his sister-in-law Harpal Kaur. Amrik Singh gave another blow by reverse side of

Gandasi hitting on her right biceps. Narinder Kaur gave danda blow hitting on left thumb and then another blow hitting on right thumb of Harpal Kaur. She gave another danda blow on her right arm. Gurvinder Singh gave fist blow below the right eye of Harpal Kaur. Then they both raised noise Marditta Marditta. Thereupon, Narmail Singh son of Ram Asra, Jatt by caste, resident of village Mullanpur Garibdass and Devinder Singh son of Ram Singh, Saini by caste, resident of Mullanpur Garibdass, who were cutting Bajra crop, ran towards the spot and saved them from the accused. Otherwise, the accused would have caused more injuries to them. He and his sister-in-law Harpal Kaur were shifted to Civil Hospital, Kharar by his brother Jagbir Singh by arranging a private vehicle. Due to some domestic problem, he left the hospital without telling the doctor and reached his house on that day. Motive behind this occurrence was that land in their possession was Shamlat Deh, from which Amrik Singh was demanding share forcibly and was not allowing them to cut trees standing in the said land. Amrik Singh was also demanding share in the said trees. Earlier, this land was in possession of their father and now since 9.12.1991, it was in possession of him as well as Jagbir Singh, Davinder Singh and Balbir Singh. Hence, action be taken against them.

The abovesaid statement of complainant Amritpal Singh was attested by ASI Som Nath. He made an endorsement thereon and sent ruqqa to the police station through C-I Raghbir Singh for registration of formal FIR under Sections 323/324 read with Section 34 of the Indian Penal Code ('IPC' for short). Investigation of the case

was conducted by him. He visited the spot and prepared rough site plan. Statement of Harpal Kaur-injured was recorded. Further, investigation was conducted by ASI Karam Chand and then by ASI Gurcharan Singh. Accused were arrested and released on bail. On receipt of X-ray report, opinion of the doctor was obtained regarding injuries of the injured. Statements of remaining witnesses were recorded. On completion of the investigation, final report under Section 173 of the Code of Criminal Procedure ('Cr.P.C.' for short) was presented against the accused.

Challan having been presented, copy thereof alongwith documents attached therewith, was supplied to the accused, as required under Section 207 Cr.P.C. A prima facie case was found to be made out against the accused and accordingly, they were charge sheeted for the offences punishable under Sections 323/324/34 IPC. Accused pleaded not guilty and claimed trial.

With a view to substantiate the allegations against the accused, prosecution examined as many as 6 PWs, besides producing on record other relevant documents. 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, alleged false implication and pleaded complete innocence. Accused opted to lead defence evidence and brought on record numerous documents.

After hearing learned counsel for both the parties and going through the evidence brought on record, learned trial court came to the conclusion that prosecution has proved its case,

bringing home guilt against the accused. Accordingly, accused were held guilty and convicted for the offence under Sections 324/323/34 IPC, vide judgment of conviction dated 8.9.2010. Thereafter, order of sentence of even date, i.e. 8.9.2010 was passed, awarding following sentence:-

<i>Name of accused</i>	<i>Under Sections</i>	<i>Sentence</i>
Amrik Singh	324 IPC	To undergo RI for one year
	323 IPC	To undergo RI for six months
	323 read with Section 34 IPC	To undergo RI for six months
Gurvinder Singh	324 read with Section 34 IPC	To undergo RI for one year
	323 IPC	To undergo RI for six months
	323 read with Section 34 IPC	To undergo RI for six months
Narinder Kaur	324 read with Section 34 IPC	To undergo RI for one year
	323 IPC	To undergo RI for six months
	323 read with S. 34 IPC	To undergo RI for six months

All the sentences were ordered to run concurrently.

Feeling aggrieved against the abovesaid judgment of conviction and order of sentence, convicts filed their appeal. Learned Additional Sessions Judge SAS Nagar, upheld the conviction of the convicts, however, they were given the benefit of probation, vide impugned judgment dated 2.6.2014. Hence this revision petition, at the hands of the complainant.

Learned counsel for the petitioner submits that although learned courts below have rightly recorded the conviction of the

accused-respondents and awarded suitable sentence to them, yet learned Additional Sessions Judge fell in a serious error of law, while granting them benefit of probation under the Probation of Offenders Act, 1958, (' Act of 1958' for short). He further submits that learned Additional Sessions Judge ought to have dismissed the appeal of the respondents in toto. He prays for setting aside the impugned judgment to the extent of granting the benefit of probation to the respondents-convicts, by allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the arguments advanced, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, present one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its revisional jurisdiction. To say so, reasons are more than one, which are being recorded hereinafter.

A bare reading of the impugned judgment would show that each and every relevant aspect of the matter was discussed in detail, evidence brought on record was appreciated in the correct perspective and cogent findings were recorded, before arriving at a judicious conclusion. Having said that, this Court feels no hesitation to conclude that learned Additional Sessions Judge, while granting benefit of probation to the respondents-convicts, has not exceeded his 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 the respondents No. 2 and 3 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-appreciateion 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 (Cri.) 374** and **Sukhdev Kumar Vs. State of Punjab and another, 2012 (3) RCR (Cri.) 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 granting the benefit of probation to the respondents. 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 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

15.9.2015
Ak Sharma