

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.786 of 2014 (O&M)
Date of Decision:-02.11.2015

Sewa Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. S.S. Gill, Advocate for the petitioners.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.(Oral)

Present revision petition has been filed against the judgment dated 14.10.2013 passed by the learned Addl. Sessions Judge (Fast Track Court), Patiala, whereby the appeal against the judgment and order dated 08.07.2013 passed by the Addl. Chief Judicial Magistrate, Patiala, was dismissed.

Learned Addl. Chief Judicial Magistrate, Patiala, vide his judgment dated 08.07.2013 has found the petitioners guilty for the offence punishable under Sections 447 read with Section 149, 148 and 506 IPC and, accordingly, they were convicted and ordered to be released on probation under Section 4(1) of the Probation of Offenders Act, 1958 (for brevity “the Act”), on furnishing of probation bond in the sum of Rs.10,000/- each with one surety in the like amount.

Learned counsel for the petitioners though has raised the plea that petitioner No.2, namely, Daljit Singh son of Sewa Singh was a juvenile, but this fact could not be effectively pleaded before the trial Court.

However, at this stage, he confined his arguments only to the extent that in view of the Section 12 of the Act, the petitioners be not made to suffer disqualification in future career.

Learned counsel for the petitioners further submits that petitioners petitioner No.2 has not committed any such offence except the present one and, therefore, considering his best conduct and evidence on record, he should be extended the benefit of Section 12 of the Act.

In support of his aforesaid contention, learned counsel for the petitioners relies upon Division Bench Judgment of Hon'ble Apex Court in **Aitha Chander Rao Vs. State of Andhra Pradesh, 1981 SCC 17**, as well as order of this Court passed in **Criminal Revision No. 1987 of 2006** titled as **"Gurlabh Singh Vs. State of Punjab"** decided on 05.12.2013.

Learned counsel for the State, on instructions from Head Constable-Satnam Singh, though has not seriously disputed the aforesaid judgments, but submits that petitioner No.2 cannot be allowed to take such plea at this belated stage.

I have heard learned counsel for the parties.

Only ground raised by learned counsel for the petitioners is that petitioner No.2 though was a juvenile, but as the said plea has not been raised before the trial Court, therefore, he is not raising that fact at this belated stage. However, he submits that in view of judgment passed in **Aitha Chander Rao's case (supra)**, the petitioner No.2 is entitled to the extend the benefit of Section 12 of the Act. Relevant part of the said judgment reads as under:-

“This appeal by special leave is directed against Criminal Revision No.1987 of 2006 3 the judgment of High Court of Andhra Pradesh affirming the conviction of the appellant under Section 304-A Indian Penal Code for 2 years' RI and a fine of Rs.500. After having gone through the judgment of the courts

below, we do not find any reason to interfere with the merits of the appeal. The only question that may be considered is if it is a proper case in which the appellant may be released on probation. The Sessions Judge had found that there was some amount of contributory negligence on the part of the appellant and having regard to the peculiar circumstances of this case we think it is eminently a fit case in which the appellant may be released on probation. We therefore suspend the sentence of imprisonment only maintaining the fine imposed on the appellant and instead of release him on probation of good conduct under Section 4 of the Probation of Offenders Act and maintaining peace and good behaviour for a period of one year and if he violates any condition of the bond, he may be called upon to surrender and serve the remaining part of the sentence. Out of the fine of Rs.500, the entire amount shall be paid as compensation to the widow and legal heirs of the deceased.

As the appellant has been released on probation, this may not affect his service career in view of Section 12 of the Probation of Offenders Act. The appeal is disposed of with the aforesaid observations.”

Considering the fact that the petitioners have been found guilty for the offence punishable under Section 447 read with Sections 149, 148 and 506 IPC and they have been released on probation by the Courts below, coupled with fact that as there is no such case registered against them during probation period, the petitioners are extended the benefit of Section 12 of the Act.

The present revision petition is dispose of with the aforesaid observations.

(HARI PAL VERMA)
JUDGE

November 02, 2015
Anjal