

CRR No.625 of 2015

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

CRR No.625 of 2015
Date of decision: 23.04.2015

Mal Singh and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. A.S. Jattana, Advocate, for the petitioners.
Mr. Naveen Sheoran, DAG, Haryana.
Mr. R.V.S. Chugh, Advocate, for the complainant.

PARAMJEET SINGH, J. (ORAL)

This criminal revision has been filed by the petitioners against judgment dated 06.02.2015 passed by learned Sessions Judge, Sirsa, thereby dismissing the appeal preferred by the petitioners against the judgment of conviction dated 07.08.2012 and order of sentence dated 08.08.2012 passed by the learned Judicial Magistrate Ist Class, Dabwali, vide which the petitioners have been convicted for offence punishable under Sections 323 and 324 read with Section 34 of the Indian Penal Code and sentenced to undergo simple imprisonment for six months and also to pay a fine of Rs.300/- each for commission of offence under Section 323 read with Section 34 IPC, in default of payment of fine to further undergo rigorous imprisonment for two weeks. Petitioners have

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been sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.500/- each for commission of offence under Section 324 read with Section 34 IPC, in default of payment of fine to further undergo rigorous imprisonment for one month. Both the sentences have been ordered to run concurrently.

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgments of the Courts below and in view of the ultimate prayer of the petitioners seeking for release on probation on payment of some compensation to the victim.

I have heard the learned counsel for the parties and perused the record.

At the very outset, without challenging the conviction recorded against the petitioners by the courts below, learned counsel for the petitioners has sought benefits of probation towards the petitioners by taking a lenient view on the quantum of sentence. Learned counsel for the petitioners contended that in the light of the Full Bench judgment rendered in ***Joginder Singh vs. State of Punjab, 1980 CLJ (Criminal) 150***, the prescription of minimum sentence is no bar for attracting the provisions of the Probation of Offenders Act or as a matter of fact Sections 360 and 361 of the Code of Criminal Procedure. Relying heavily on the aforesaid submissions, the learned counsel for the petitioners contends that the petitioners deserve a sympathetic hilt with regard to the quantum of sentence.

Having examined the impugned judgments, I find that the

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evidence appears to have been appreciated in the right perspective. No illegality or irregularity has been pointed out warranting interference by this Court in criminal revision. As such, impugned judgments of conviction are maintained.

Now coming to the quantum of sentence, in the wake of the aforesaid discussions and also keeping in view the fact that no bad antecedents of the petitioners have been brought on record by the prosecution in order to dub them as habitual offenders, I deem it a fit case where benefit of provisions of Section 4 (1) of the Probation of Offenders Act, 1958 can be extended to them.

Petitioners have been facing the ordeal of trial and damocle's sword has been hanging on their heads for more than six years. The sentence awarded to them is one year rigorous imprisonment. In the opinion of this Court, no useful purpose would be served by keeping the petitioners in the company of hardcore criminals. Instead of keeping the petitioners in the company of hardcore criminals, releasing them on probation, subject to payment of compensation to the victim under Section 357 Cr.P.C., seems to be best option to avoid tension and to maintain harmony between the parties. Accordingly, affirming the order of conviction of the petitioners, I direct that on deposit of ₹ 50,000/- by each petitioner i.e. a total of ₹ 1,00,000/- under Section 357 Cr.P.C with the trial Court to be disbursed to the victim as compensation, the petitioners be released on probation for one year on furnishing probation bonds and one surety bond each to the satisfaction of the trial Court.

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During the period of probation, petitioners shall continue to maintain good behaviour and keep peace and in case of breach of conditions of the bond, they will be liable to serve the remaining part of the sentence as and when called for.

With the observations made above, present revision petition is disposed of with a direction that the petitioners, if in custody, be released immediately on furnishing of bonds as aforesaid, if not required in any other case.

(Paramjeet Singh)
Judge

April 23, 2015
R.S.