

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

**CRR No.1841 of 2009 (O&M)
Date of Decision: 15 November, 2016**

Rishi Pal

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ved Parksah, Advocate
for the petitioner.

Mr. Deepak Sabherwal, Addl. A.G. Haryana.

FATEH DEEP SINGH, J.

This is a criminal revision by the convict-petitioner Rishi Pal, who was initially found guilty by the Court of learned Sub Divisional Judicial Magistrate, Kosli in case FIR No.23 dated 11.4.2002 under Section 325 IPC, Police Station, Rohrai and sentenced to undergo rigorous imprisonment for 02 years and to pay fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for one month. Though, the then convict chose to file an appeal, however, vide judgment dated 15.7.2009, the Court of learned Additional Sessions Judge, Rewari dismissed the appeal of the revisionist upholding the findings recorded by the learned trial Court. That is how, the petitioner is before this Court in the present revision petition.

Heard, learned counsel for the parties and perused the records of the Courts below. Learned counsel for the petitioner at the very onset has sought to highlight the allegations that it was on the statement of complainant Chand Kaur in which she alleged that on 7.4.2002 during an entertainment function in their village accused under the influence of liquor abused them while she was in the house and when she opened the door the accused, who was having *lathi* in his hand gave its blow on the left leg of the complainant-Chand Kaur and after hearing her shrieks and commotion her sons Umed Singh, Sher Singh and Satbir came at the spot and rescued her leading to the registration of the FIR and investigations.

At the trial, the prosecution examined PW1 Magan Singh, Sub Inspector; PW2 Sish Ram; PW3 Satbir; PW4 Dr. T.C. Tanwar; PW5 Dr. Ashok Saini; PW6 Mam Kaur and PW7 Umed and closed the evidence. The accused denied the allegations in his stand under Section 313 Cr.P.C. and tendered the documents Ex.D1 to Ex.D5 leading to judgment of conviction .

At the very onset, learned counsel for the petitioner has sought to make a humble prayer for the grant of probation holding out that the Courts below have failed to consider the same sympathetically. Though, on behalf of the State the same is stoutly opposed by the learned State counsel submitting that the petitioner is responsible for causing injury to a woman and, thus, was not entitled to any concession of probation. Appreciating the submissions, it is by no means put to question by the learned State counsel the submission of the learned counsel for the petitioner that the petitioner has undergone incarceration for a period of more than two and a half months. Admittedly, the petitioner at the time of

occurrence in the year 2002 was about 25 years of age, now married with children and has only been attributed a single injury that too on non-vital part of the body of the victim by means of *lathi*. The parties have a history of previous litigation which is well reflected from the documents Ex.D1 to Ex.D5 but at the same time as per the medical testimonies and the documents proved on the records the victim has certainly received grievous injury by means of blunt weapon. Thus, in the totality of this situation and that the petitioner has old parents and that he has already faced agony of trial for more than 14 years and must have suffered enormously and the sword of damocles was hanging on his head for such a long time. Keeping in view the period of incarceration that he has undergone together with the fact that if the petitioner is sent behind the bars he could come across with hardened criminals and which might sow seeds of enmity and hatred and being co-villagers might bring more sense of vengeance and revenge and rather to smoothen out the situation and to bring about harmony together with the fact that there has been failure of due exercise of powers under Section 362 Cr.P.C. by the Courts below as no sufficiently and legally tenable grounds have been expressed by the Courts below so as to deny such a relief to the petitioner.

Thus, the petitioner is allowed concession of probation in terms of Section 4 of the Probation of Offenders Act, 1958 for a period of one year on his entering into a bond in the sum of Rs.25,000/- with one surety each of the like amount to the satisfaction of the trial Court undertaking therein that he will keep peace and maintain good behaviour and will appear and receive sentence as and when called upon to do so during the said period.

In the light of the same, the revision petition stands disposed of accordingly.

November 15, 2016

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(FATEH DEEP SINGH)

JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No