

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

1. CRR No.2120 of 2010

Satyawan

.....Petitioner

Versus

State of Haryana

.....Respondent

2. CRR No.2125 of 2010

Dalbir and another

.....Petitioners

Versus

State of Haryana

.....Respondent

Date of Decision : 22.04.2016

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether reporters of local newspaper may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the digest?

Present : Mr. Sagar Aggarwal, Advocate
for the petitioners.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

FATEH DEEP SINGH, J.

Both these revision petitions are preferred by the convicts who all three namely Satyawan, Dalbir and Shamsher were found guilty vide judgment/order of sentence dated 16th April, 2009 by the Court of learned Judicial Magistrate Ist Class, Panipat in case bearing FIR

No. 138 dated 25.08.2001 under Sections 323, 324, 325 I.P.C. read with Section 34 I.P.C. pertaining to Police Station Israna (Haryana) whereby the trial Court holding them guilty for commission of offences under Sections 323, 324, 325 I.P.C. read with Section 34 I.P.C. sentenced them to undergo rigorous imprisonment for 06 months and to pay a fine of Rs.500/- each and in default of payment of fine to undergo further rigorous imprisonment for one month.

The respective appeals of these convicts before the learned Additional Sessions Judge, Panipat stood declined and dismissed by separate judgments of even date 26.07.2010 whereby judgment of conviction and sentence was upheld. Since in both these revision petitions common questions of law and facts are involved and thus for the sake of brevity are being taken up and decided together through this common judgment.

Appreciating the arguments of learned counsel for the revisionist/petitioner-Mr. Sagar Aggarwal and learned State Counsel-Mr. Munish Sharma, Assistant Advocate General, Haryana. It is the allegation of the

complainant that on 25.08.2001 on account of dispute over 04 killas of Gram Panchayat land between the complainant Krishan and Balwan on the day of occurrence at around 4.30 PM the complainant-Krishan was present in his fields when accused-Daya armed with Khotna, his son-Dalbir armed with gandasi, Satyawar armed with iron rod and Shamsher armed with Binda came and caused injuries to him, as a consequence of which he was rushed to the hospital at Panipat where he was medically examined.

The prosecution to establish its case examined PW1-Head Constable Krishan, PW2-complainant/injured-Krishan, PW3-Sewa Ram-eye witness, PW4-SI Ashok Kumar Investigating Officer and PW5-Balwan Singh another eye-witness/injured.

The entire incriminating evidence of the prosecution was put to the accused in the stand under Section 313 Cr.P.C. who denied the same, however, the accused did not lead any evidence leading to their conviction.

Mr. Sagar Aggarwal, learned counsel for the revisionists had at the very onset of his submissions

argued that the occurrence has taken place in the year 2001 and the trial was concluded in the year 2009 and the appeal was disposed off in the year 2010 and for more than 10 years before the Courts below and subsequently on filing of revision in the year 2010 till date for a period spanning over almost 15 years, the revisionists have been facing the ignominy of this trial in appeals/revisions and that the offences for which they have been convicted are not of heinous nature and that the parties are residents of the same very village/neighbours and if are send to custody would further sow seeds of enmity, hatred and evil and thus, vitiating the atmosphere.

It is contended that the petitioners are not previous convicts and have a clean record and even after the present occurrence there has been no allegation of misconduct *qua* the petitioners and, thus, prayed for grant of probation. Though, as a semblance of resistance the State has sought to oppose this prayer of the petitioners' side but has duly acceded to the fact that the petitioners are first offenders and that they have certainly faced the arduous of this litigation for so many years. Keeping in

view that the provision of Section 360 Cr.P.C. have been enshrined with the definite purpose to bring back such convicts to the mainstream of the society and to ensure that such first offenders are not sent to the Jail and thus, to save them from becoming hardened criminals. It is onerous duty of the Court to ensure due exercise of powers under these provisions as it will not only ameliorate the welfare of the masses but would also be in furtherance of these provisions which along with the Probation of Offenders Act, 1958 have been coined to advance the course of justice.

Keeping in view that the offences for which the petitioners have been convicted are not of heinous nature and, thus, this Court in the exercise of its powers under Section 360 (5) Cr.P.C. is of the opinion that it is expedient to release the petitioners on probation of good conduct being first offenders and must have suffered enormously throughout this lis. Thus, in the totality of what has been noticed by this Court, the petitioners on account of their behavior throughout the trial and subsequent thereto and in view of special circumstances as has been canvassed by

their counsel, this Court though upholding the judgment of conviction and dismisses these revisions and modifies the judgment of lower Court thereby extending them benefit of probation.

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

In the light of the same, both these revision petitions stand disposed off accordingly.

April 22, 2016
Dpr

(FATEH DEEP SINGH)
JUDGE