

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

CRR No.1881 of 2012

Date of Decision: July 15, 2016

Balraj and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Anand Kumar Bishnoi, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

The petitioners Balraj and his brother Joginder were initially tried in a case got registered by way of FIR No.181 dated 25.05.2006 under Sections 332,353,186,506,34 IPC pertaining to Police Station, Sadar, Ballabgarh. The allegations against them were levelled by ETO, K.S.Malik to the effect that while they were on routine checking they had intercepted vehicle No. HR-38H/2107 ferrying minor mineral and when they asked for the papers the driver along with his accomplices threw stones at them and assaulted them and torn off his shirt. The Court of learned Judicial Magistrate 1st Class, Faridabad vide judgment dated 19.9.2011 found the accused guilty for commission of the offences under Sections 332,353,186,506,34 IPC and sentenced them to undergo rigorous imprisonment for a period of 06 months under Section 332 IPC; rigorous

imprisonment for 06 months and to pay a fine of ₹1500/- under Section 353 IPC; rigorous imprisonment for a period of 03 months each under Section 506 IPC and to pay a fine of ₹500/- each under Section 186 IPC respectively. The same was challenged by the convicts in the appeal and the Court of learned District and Sessions Judge, Faridabad through judgment dated 6.6.2012 upheld the findings of the trial Court qua the petitioners under Sections 353 and 506 IPC and acquitted them for the offences punishable under Sections 186 and 332 IPC. That is how, the petitioners have come up against these findings before this Court through the instant criminal revision petition.

Heard, learned counsel for the parties and perused the records of the case. Learned counsel for the petitioners at the very onset of his submissions has sought to make a compassionate appeal on the grounds that both the petitioners are brothers, young persons and that both of them have families to support and have already undergone travails of this prosecution for almost 10 years and had prayed for grant of probation. Though, the State has sought to oppose this prayer on the grounds that they have assaulted an officer of the State but has duly acceded to the fact that for more than 10 years they have faced the music of these allegations.

Appreciating the submissions of the two sides, certainly the petitioners Balraj and Joginder were aged around 32/33 years respectively at the time of the trial and by now must have been in the middle of their ages with families and growing up children. Offences for which the petitioners have been hauled up are though not very serious but certainly have a distressing effect on the social order but at the same time having

regard to the fact that they have undergone agony of this for more than 10 years and must have undergone the trauma together with the fact that they do not have as has been acceded to by the learned State counsel any previous history of criminality and rather are law abiding citizens and even after the present case nothing has been brought to light about their criminal conduct. The petitioners as has been submitted by the petitioner's counsel have their families to support and if they are sent behind the bars their young children as well as families would be thrown into distress and which would have its own repercussions and adverse impact upon all the members. The petitioners if sent behind the bars there is every likelihood that they might mixup with the criminal elements and get off the path of rectitude. The principle of "Reformative Theory" of criminal jurisprudence has been brought about to rehabilitate the offenders who are not habitual criminals and have undergone sufficient remorse for their conduct which is out of sheer ignorance so that they may not suffer such a serious consequences of their act that they will be forced to adopt criminal path. The framers of Cr.P.C. in their wisdom have enacted provisions of Section 360 Cr.P.C to consider such cases for grant of probation. The learned Courts below lost sight of the same and provisions of Section 361 which necessitates passing of such an order for the grant or refusal to the benefit of the probation.

In view of the reasons detailed and discussed above, it is a fit case for the release of the petitioners on probation. 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 ₹20,000/- 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, the revision petition stands disposed of accordingly.

(FATEH DEEP SINGH)
JUDGE

July 15, 2016
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