

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

**CRR No.1565 of 2015 (O&M)
Date of Decision: May 04, 2016**

Raman Kumar

.... Petitioner

vs.

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. K.R. Dhawan, Advocate for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

Mr. K.S. Brar, Advocate for respondent Nos.2 and 3.

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the judgment dated 16.01.2015 passed by learned Addl. Sessions Judge, Moga, vide which in an appeal filed by the accused-respondents Sandeep Singh and Kuldeep Singh against their conviction and sentence under Section 325 and 323 read with Section 34 IPC, they were ordered to be released on probation.

A perusal of the filed shows that before the learned Judicial Magistrate 1st Class, Moga, three persons were tried. Out of which, one Phulwant Singh died and remaining two accused, namely Sandeep Singh and Kuldeep Singh were convicted under Sections 325 and 323 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for two years each and to pay a fine of ₹2,000/-, in default of payment of fine to further undergo rigorous

imprisonment for three months each for the commission of offence punishable under Section 325 IPC and were also sentenced to undergo rigorous imprisonment for six months each and to pay a fine of ₹5,000/-, in default of payment of fine to further undergo rigorous imprisonment for two months each for the commission of offence punishable under Section 323 read with Section 34 IPC. Both the substantive sentences were directed to run concurrently.

Against the said judgment, both the accused preferred an appeal. Learned Addl. Sessions Judge, Moga while disposing of the appeal ordered that the accused-respondents should be released on probation. However, they were ordered to pay compensation of ₹50,000/- (₹25,000/- each) to the complainant.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the petitioner contends that under Section 360 Cr.P.C., the accused-respondents can be released on probation by the Court after taking into consideration the age, character and the antecedents of the accused.

It is further contended that in this case, the Court has not gone into the said mandate of Section 360 Cr.P.C.

A perusal of judgment of learned Addl. Sessions Judge, Moga shows that the lower court has taken into consideration the age, which was otherwise mentioned in the charge-sheet. The circumstances were also taken into consideration by way of observing that one blow each has been attributed to the accused and

it was not repeated. So far as the antecedents are concerned, it was

never pleaded before the lower court that the accused is a habitual offender. It being so, this Court does not find any illegality or perversity in the judgment of learned Addl. Sessions Judge, releasing the accused-respondents on probation under Section 4(1) of the Probation of Offenders Act, 1958. So far as, the compensation is concerned, the accused-respondents were ordered to pay ₹25,000/- each as compensation to the complainant (total ₹50,000/-).

In this case, left arm of the complainant was fractured. Such fracture is likely to take time to heal. Therefore, considering the estimated amount to be spent on the treatment, pain and suffering, the compensation is enhanced from ₹25,000/- each to ₹50,000/- each (total ₹1,00,000/-).

The revision is, accordingly, partly allowed and partly dismissed.

May 04, 2016
sarita

(KULDIP SINGH)
JUDGE