

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

CRR No.1816 of 2014 (O&M).
Decided on:-25.04.2016.

Rishi Pal.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Present:- Mr. Sudhir Paruthi, Advocate
for the petitioner.

Ms. Shaveta Sanghi, AAG, Haryana.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against judgment dated 11.3.2014 passed by learned Additional Sessions Judge, Kaithal whereby respondents No.2 and 3 have been ordered to be released on probation for a period of one year each without supervision on furnishing requisite bonds in the sum of Rs.25,000/- with one surety each in the like amount with an undertaking that they will be maintaining peace and harmony during this period of one year. The accused were also directed to compensate the complainant to the tune of Rs.20,000/-. The said amount was deposited by the accused in the appellate Court.

Briefly stated, case of the prosecution is that on 6.8.2010 at

about 6.30 a.m. when petitioner-complainant Rishi Pal was present in his hair-dressing shop, respondent-accused Satpal son of Ram Dharai, Deepu alias Deepak son of Satpal and Rinku alias Pardeep son of Suresh came at his shop. Whereas Satpal and Rinku @ Pardeep were having Dandas in their hands, Deepu @ Deepak was having knife in his hand. Upon reaching there, they asked the petitioner that why he had gone to their home at 3.00 O'clock, on which the petitioner replied that he had never gone to their home. In the meanwhile, accused Satpal hit the Danda on the head of petitioner and then hit him with Danda on his arm and waist. Accused Rinku @ Pardeep also hit his Danda on both legs of the petitioner and then hit it on his waist. Accused Deepu @ Deepak attacked the petitioner with his knife due to which he received injuries on his right hand. On hearing the noise, Krishan Kumar and Rattan came at the spot and on seeing them, the accused fled away from there. While fleeing away from the spot, the accused also broke the glass and other things of his shop.

On the basis of aforesaid statement of the petitioner-complainant and after getting his medico-legal report, the FIR No.66 dated 6.8.2010 under Sections 323, 324 and 427 read with Section 34 IPC was registered against the respondents-accused at Police Station, Dhand, District Kaithal. After completion of formalities of investigation, report under Section 173 Cr.PC was prepared and presented in the Court.

Copies of Challan were supplied to the accused free of costs as

envisaged under Section 207 Cr.PC. Accused Rinku @ Pardeep was declared juvenile after conducting the enquiry and was sent to the Juvenile Justice Board for facing trial. However, accused Satpal and Deep @ Deepak were charge sheeted under Sections 323, 324 and 427 read with Section 34 IPC to which they did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined 5 witnesses, namely, Dr. Anil Verma (PW1), complainant Rishi Pal (PW2), eye-witness Krishna (PW3), Ram Kumar (PW4) and investigating officer ASI Phool Chand (PW5). Thereafter, evidence of the prosecution was closed and statements of accused under Section 313 Cr.PC were recorded wherein they denied all the allegations levelled against them and pleaded innocence. The accused, however, did not lead any evidence in their defence.

After hearing both the sides and perusing the case file, learned Judicial Magistrate 1st Class, Kaithal vide judgment dated 5.8.2013 convicted accused Satpal and Deepu @ Deepak under Sections 323 and 324 read with Section 34 IPC and vide separate order dated 6.8.2013, sentenced them to undergo simple imprisonment for 6 months under Section 323 IPC and to undergo simple imprisonment for 1 year under Section 324 IPC.

The conviction and sentence imposed by the trial Court was made subject matter of challenge before the appellate Court by respondents No.2 and 3-accused. Learned Additional Sessions Judge, Kaithal vide judgment dated 11.3.2014 maintained the conviction of both the accused and

dismissed the appeal. However, the sentence as imposed by the trial Court was modified and the respondents No.2 and 3-accused were ordered to be released on probation as mentioned hereinabove.

It is in these circumstances, the petitioner-complainant has filed the present revision petition impugning the judgment dated 11.3.2014 passed by the appellate Court.

Learned counsel for the petitioner-complainant has contended that there was no occasion for the appellate Court to release the respondents-accused on probation as they were rightly sentenced by the trial Court. Learned counsel has argued that both the respondents-accused are habitual offenders and various cases were lodged against them. Once the prosecution has proved its case beyond reasonable doubt and the respondents have criminal background, the impugned judgment dated 11.3.2014 passed by learned appellate Court cannot sustain in the eyes of law and liable to be set aside.

Heard.

Perusal of the impugned judgment dated 11.3.2014 reveals that learned appellate Court has observed that the appellants, respondents herein, have undergone the ordeals of trial for about four years and they are not previous convicts. Moreover, they have not repeated any criminal act during this period and are poor persons. In these circumstances, the appellate Court found them entitled to be released on probation.

It would be pertinent to mention here that scope of revisional jurisdiction is vested with limited powers. Perusal of the records reveals that neither before the trial Court nor before the appellate Court, the prosecution has proved that the respondents-accused are habitual offenders and, as such, the appellate Court has rightly accepted the request of respondents-accused for releasing them on probation.

Moreover, quantum of sentence is always fixed by the Court and is prerogative of the Court unless a minimum sentence is prescribed for an offence. Therefore, this Court does not find any illegality, irregularity or perversity in the impugned judgment passed by learned appellate Court which may warrant interference of this Court by invoking its revisional jurisdiction.

In view of the above, affirming the impugned judgment dated 11.3.2014 passed by learned Additional Sessions Judge, Kaithal, the present revision petition, being devoid of any merit, is dismissed.

April 25, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE