

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

**CRR-2676-2015 (O&M)
Date of Decision : 21.11.2016**

Harjinder Kumar @ Modi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajiv Joshi, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

CRM-23668-2015

Heard.

For the reasons mentioned in the application, the same is allowed and the delay of 37 days in filing the instant revision petitioner is hereby condoned.

Main case

The petitioner is aggrieved against the impugned judgment dated 09.03.2015, passed by learned Additional Sessions Judge, Jalandhar, (for short, 'the appellate Court') whereby, respondent Nos.2 to 5 were ordered to be released on probation of good conduct for a period of three years on their furnishing personal bond/probation bond

in the sum of Rs.30,000/- with one surety in the like amount each, and to pay Rs.5,000/- each as compensation under Section 357 Cr.P.C. to be given to petitioner-injured-Harjinder Kumar @ Modi, with the condition that they would maintain a peace and be of good behaviour during the aforesaid period of three years. Earlier, the learned Sub Divisional Judicial Magistrate, Phillaur, vide judgment and order dated 10.07.2014, convicted and sentenced accused-respondent Nos.2 to 5 as under:-

Name of convict	Conviction under Section	Sentence of imprisonment	<i>Fine</i>	<i>In default</i>
Chhinder Pal	325 IPC	Three years	Rs.200/-	7 days
	323 IPC	Six months	-	-
	341 IPC	--	Rs.200/-	7 days
Narinder Kumar	325/34 IPC	Three years	Rs.200/-	7 days
	323 IPC	Six months	-	-
	341 IPC	--	Rs.200/-	7 days
Maninder Kumar	325/34 IPC	Three years	Rs.200/-	7 days
	323 IPC	Six months	-	-
	341 IPC	--	Rs.200/-	7 days
Surjit Singh	325/34 IPC	Three years	Rs.200/-	7 days
	323 IPC	Six months	-	-
	341	-	Rs.200/-	7 days

However, all the sentences were ordered to run concurrently.

Feeling aggrieved, accused-respondent Nos.2 to 5, preferred an appeal before the learned appellate Court which vide the impugned order dated 09.03.2015 released accused-respondent Nos.2

to 5 on probation.

Hence the present revision petition by the complainant.

It is contended that the impugned order had been passed at the back of the complainant-petitioner as he was not impleaded as party. The accused-respondents had been convicted for causing grievous injury to the complainant, therefore, the relief of probation ought not have been extended to them. It is further averred that the accused did not challenge the judgment of conviction before the learned appellate Court which amounts to admission of the offence. The learned appellate Court fell into error while modifying the order of sentence thereby releasing the accused on probation.

Heard.

From the perusal of the impugned judgment, it emerges that the accused are the sole bread earners of their respective families. They have already suffered protracted trial for more than five years. It is apposite to mention here that vide impugned judgment dated 09.03.2015, learned Court below has ordered release of the respondents on probation of good conduct for a period of three years. Thus, the probation period is still subsisting. Learned counsel for the complainant-petitioner has failed to indicate any circumstance showing that the respondents have ever misused the concession of probation till date.

In the considered opinion of this Court, the learned appellate Court, after considering all the relevant facts and mitigating circumstances in favour of the accused, has passed the impugned judgment, which does not suffer from any perversity or illegality.

Accordingly, finding the present revision petition devoid of any merit, the same is ordered to be dismissed.

21.11.2016
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No