

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

CRR No.1539 of 2016.
Decided on:-24.05.2016.

Pritam Kaur.

.....Petitioner.

Versus

Satnam Singh 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. Vipin Mahajan, Advocate
for the petitioner.

HARI PAL VERMA, J.

Petitioner Pritam Kaur wife of Pritam Singh has filed the present revision petition impugning the judgment dated 22.1.2016 passed by learned Judicial Magistrate 1st Class, Gurdaspur whereby the respondents-accused though were held guilty of having committed offence under Sections 323, 324 and 148 read with Section 149 IPC, but they were extended the benefit of probation under Section 4(1) of the Probation of Offender Act, 1958.

By separate order on quantum of sentence, learned Magistrate instead of sentencing the accused to any punishment, released them on probation after entering into probationary personal bonds in the sum of

Rs.10,000/- each for a period of six months and to appear and receive sentence as and when called upon during such period. In the meantime, the accused were also directed to keep peace and be of good behaviour and they were further burdened with cost of Rs.1,000/- each.

Briefly stated, case of the petitioner-complainant is that on 17.6.2010 at about 5.00 p.m., the respondents-accused, namely, Satnam Singh, Kishan Singh, Rajbir Singh, Malkiat Singh and Balwinder Kaur came out of their houses and quarreled with the complainant. She rushed to her house, but the accused followed her. Accused Satnam Singh snatched the sickle from her hand and gave blow with the same which hit the adjoining finger of thumb of her left hand. Accused Kishan Singh gave kick blow on her abdomen whereas accused Rajbir Singh gave fist blow on her face. Accused Kishan Singh also gave fist blow on her left arm. Her ear ring was snatched by accused Balwinder Kaur.

On raising alarm by the complainant, her daughter Rajwinder Kaur and Balkar Singh came there. On seeing them, all the accused fled away from the spot along with their respective weapons. The complainant was taken to Civil Hospital, Kalanaur by said Rajwinder Kaur and Balkar Singh, who got her admitted there. She was medically examined by the doctor. On 18.6.2010, police visited the said hospital and recorded her statement, but the police did not record the true version of her statement. Thereafter, the complainant came to know that police has cancelled the FIR.

As such, the complainant was constrained to file criminal complaint against the accused.

On the basis of preliminary evidence led by the petitioner-complainant, all the accused were summoned by the trial Court to face trial under sections 323, 379 and 148 read with Section 149 of Indian Penal Code.

The complainant in her pre-charge evidence stepped into witness box as CW1. She also examined her daughter Rajwinder Kaur as CW2, Dr. Sandeep Aggarwal, Medical Officer, Civil Hospital, Amritsar as CW3, who proved on record the MLR report of complainant as Ex.CW3/A. Thereafter, the complainant tendered into evidence the certified copy of FIR Ex.C1 and closed the pre-charge evidence.

On finding a prima facie case, the accused were charge sheeted under Sections 323, 324 and 148 read with section 149 of Indian Penal Code to which they did not plead guilty and claimed trial.

After closure of complainant's evidence, statements of accused under Section 313 Cr.P.C. were recorded and all the incriminating evidence was put to them. However, the accused pleaded their innocence and false implication. In their defence, the accused tendered into evidence the copy of judgment Ex.D1 and order Ex. D2 and closed their defence evidence.

Vide judgment dated 22.1.2016, the trial Court held the respondents-accused guilty for commission of offence under Sections 323,

324 and 148 read with Section 149 IPC, but released them on probation vide separate order of even date.

Feeling aggrieved with the order on quantum of sentence, the petitioner-complainant has filed the present revision petition.

Learned counsel for the petitioner has argued that the trial Court has committed grave error while releasing the accused on probation instead of sentencing them to any punishment. The finding of learned trial Court that the accused are suffering from various physical ailment due to old age are illegal, arbitrary and erroneous. He has further contended that learned trial Court has shown undue sympathy to the accused.

Learned counsel for the petitioner-complainant has further contended that once it has been proved that all the accused formed an unlawful assembly and in prosecution of common object of that assembly, they caused injuries to the complainant, the impugned order on quantum of sentence is liable to be set aside and the accused are required to be sentenced accordingly.

I have heard learned counsel for the petitioner.

The scope of revisional jurisdiction is vested with limited powers. Moreover, the quantum of sentence is always fixed by the Court and is prerogative of the Court unless a minimum sentence is prescribed for an offence.

While passing the impugned order of sentence, learned

Magistrate has duly considered the circumstances of the case particularly when the respondents-accused are poor persons and are more than 60 years of age. They are suffering from various physical ailments. Even old age in itself is an ailment. The respondents-accused are first time offenders and, therefore, learned Magistrate after considering all these material facts has taken a lenient view in the matter releasing the respondents-accused on probation under Section 4(1) of the Probation of Offender Act, 1958.

Therefore, this Court does not find any illegality in the impugned judgment passed by learned trial Court which may warrant interference of this Court by invoking its revisional jurisdiction.

In view of the above, affirming the impugned order on quantum of sentence dated 22.1.2016 passed by learned Judicial Magistrate 1st Class, Gurdaspur, the present revision petition, being devoid of any merit, is dismissed.

May 24, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE