

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.2806 of 2016

.....

Date of decision:8.11.2016

Mukesh Singh

...Petitioner

v.

U.T. Chandigarh and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Arun Jangra, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 9.5.2016 passed by learned Sessions Judge, Chandigarh, modifying the sentence and releasing the accused-Vikram alias Vicky on probation by allowing the appeal filed by him against the judgment of conviction and order of sentence dated 8.6.2015 passed by learned Judicial Magistrate Ist Class, Chandigarh. The present petitioner who is complainant in the case has filed this criminal revision petition for enhancement of the sentence.

After hearing learned counsel for the petitioner and after going through the record, I find that challan had been presented by the Police of Police Station Sector 39, Chandigarh against Vikram alias Vicky (respondent No.2 herein) for the offences under Sections 325 read with

Section 34 IPC.

The brief facts of the case as noted down in the judgment dated 8.6.2015 passed by learned Judicial Magistrate Ist Class, Chandigarh, are as under:-

“The case of the prosecution finds its origin in the statement given by Mukesh Singh s/o Kapoor Singh, r/o H.No.74, DMC, Chandigarh to the Police. In his complaint, complainant Mukesh has stated that on 12.05.2011 at about 01.30 p.m. He went to school of DMC to pick up his sisters. It has been stated that when he was standing outside the gate of the school at that time Vikram @ Vicky r/o No.1012, DMC reached there alongwith his friends. It has been alleged that Vikram @ Vicky asked the complainant that as to why he is standing there at which he replied that he has come to pick up his sisters. It is further stated that Vikram instructed him to leave the spot but he refused to do so. It is further stated in the complaint that at this Vikram got angry and took his belt from his trouser and gave a blow at his face. Due to this the blood starting oozing out of his mouth and two teeth were also broken. It is also alleged that two other accused accompanying Vikram also started beating him. It has been alleged that when he raised hue and cry, people gathered at the spot because of which Vikram and his friends escaped from there. It is further stated that from the spot of incident he reached his house from where his father

took him for treatment to Government Medical College Sector 16, Chandigarh. He was discharged from the hospital after necessary treatment. In the complaint, the complainant has requested that necessary action should be taken against Vikram and his friends as per law.

3. On the basis of above statement, FIR in the present case was registered. The matter was investigated. The accused who is facing the trial was arrested. Rough site plan of the spot was prepared. Injured was got medically examined and his medical record was obtained. Belt used in the commission of offence was taken into police possession vide separate recovery memo. During the course of evidence statement of witnesses were recorded u/s 161 Cr.P.C. and after completion of necessary investigation, challan as per Section 173 Cr.P.C. was presented.”

The learned Judicial Magistrate Ist Class, Chandigarh, after going through the evidence and hearing the parties convicted the accused for the offence under Section 325 IPC read with Section 34 IPC and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment for one month. Aggrieved from this judgment, the accused Vikram alias Vicky filed an appeal before the Sessions Court and the learned Sessions Judge, Chandigarh vide impugned judgment dated 9.5.2016 upheld the conviction, but released the petitioner on probation

under Section 4(1) of Probation of Offenders Act, 1958 (hereinafter referred to as 'the Act') on his furnishing probation bonds in a sum of ₹10,000/- with one surety in like amount with undertaking to maintain peace and be of good behaviour for a period of one year and to receive the sentence, as and when called upon during the said period of one year, in case he violates any of the conditions of probation. The accused was also burdened with costs of proceedings amounting to ₹10,000/- which shall include the amount of ₹5,000/- imposed as fine by the learned trial Court.

Aggrieved from this order of the learned Sessions Judge for releasing the accused on probation, this criminal revision petition has been filed by the complainant-petitioner.

From the record, I find that first of all Vikram alias Vicky is shown as young man of 24 years as per the judgment of the learned appellate Court. Secondly, the accused Vikram alias Vicky, who is private respondent No.2 in this case is the first offender. The FIR has been registered on 17.5.2011 and for the last more than five years he is suffering from the long protracted criminal proceedings. Further more, the injuries are stated to have been given with the belt and only one belt blow was given by the accused to the complainant. Though, kick and fist blows are attributed to other co-accused are juveniles.

As the grievous injury stated to be on the teeth and other injuries are simple abrasions on the forehead and lips, therefore, keeping in view the nature of the injuries, age of the accused and the fact that he is suffering from long protracted criminal proceedings, other two accused were

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juveniles and have been tried separately, I find that the petitioner has been rightly released on probation.

Keeping in view the age of the accused, he has been rightly given the opportunity to reform himself. Therefore, the order of releasing the accused on probation is correct and as per law and does not require any interference from this Court and the same is upheld.

Finding no merit in this criminal revision petition, the same is dismissed.

November 8, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No