

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

CRR No.3300 of 2016 (O&M).

Date of Decision: 23.12.2016.

Soni @ Vishveshwar

....Petitioner.

VERSUS

Rajesh Kumar and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. K.D.S. Hooda, Advocate for the petitioner.

SNEH PRASHAR, J.

CRM-28576-2016

Delay of 23 days in filing the revision petition is condoned and the application stands disposed of.

CRR-3300-2016

The instant revision petition is directed against the judgment dated 04.05.2016 passed by learned Additional Sessions Judge, Narnaul vide which the appeal filed by the petitioner against the impugned judgment of conviction and order of sentence dated 17.11.2015 and 21.11.2015 respectively of learned Judicial Magistrate Ist Class, Mohindergarh was dismissed and release of respondent No.1-accused on probation was affirmed. As envisaged under Section 357 of the Criminal Procedure Code, learned trial Court had granted compensation of Rs.30,000/- to the petitioner, but while dismissing the appeal, learned Additional Sessions Judge had enhanced the compensation amount of Rs.30,000/- to Rs.50,000/-. Still being unsatisfied, the petitioner has approached this

The submissions made by Mr. K.D.S. Hooda, learned counsel representing the petitioner have been considered.

In Para No.17 of the impugned judgment dated 04.05.2016, the findings of learned first appellate Court are as under:-

“The learned trial court has observed that the respondent no.1/accused is a first offender and there is nothing on record which could suggest that he is a previous convict. The punishment under section 338 IPC is regarding either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both and section 3 of the Probation of Offenders Act, 1958 speaks that when any person is found guilty of having committed an offence punishable under section 379 or section 380 or section 381 or section 404 or section 420 of the Indian Penal Code, (45 of 1860) or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code, or any other law, and no previous conviction is proved against him and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence, and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4 release him after due admonition and after considering the nature of offence and past antecedents of the convict, the learned trial court has rightly granted benefit of probation to the accused.”

Learned counsel for the petitioner failed to demonstrate any infirmity or perversity in the findings of learned first appellate Court or in the grounds on which learned trial Court had released respondent No.1-

accused on probation. The amount of compensation awarded has also been adequately enhanced by learned Additional Sessions Judge. As such, there being no merit in the petition, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

23.12.2016
jitender sharma

Whether speaking/ reasoned : Yes

Whether Reportable : No