

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

**Criminal Misc.No.2817 of 2016 in/and
Criminal Revision No.818 of 2015 (O&M)
Date of Decision: February 04, 2016**

Shamsher

...Petitioner

Versus

State of Haryana & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Vinod Bhardwaj, Advocate,
for the applicant/petitioner.

Naresh Kumar Sanghi, J.(Oral)

CRM-2817-2016

After hearing learned counsel for the applicant and going through the contents of the application which is duly supported by an affidavit, the same is hereby allowed and the order dated 14.01.2016 is hereby recalled. CRR No.818 of 2015 (O&M) is ordered to be restored to its original number.

CRM-7432-2015

After hearing learned counsel for the applicant and going through the contents of the application, the same is allowed and the delay of 95 days in filing the present criminal revision petition is hereby condoned.

CRR-818-2015 (O&M)

Challenge in this criminal revision petition is to the judgment dated 23.09.2014 passed by learned Additional Sessions Judge, Kaithal, whereby respondent Nos.2 to 5 were ordered to be released on probation of good conduct for a period of one year and the fine imposed by learned trial Court was enhanced to ₹5,200/- to be paid by each respondent separately. Out of the enhanced fine, a total sum of ₹15,000/- (Rupees fifteen thousand only) was ordered to be paid to the petitioner/victim/informant.

Learned counsel contends that the compensation ordered to be paid to the petitioner/injured/informant is on lower side in view of the fact that the private respondents had caused the grievous injuries on the person of the petitioner.

I have heard learned counsel for the applicant and with his able assistance gone through the material available on record.

The occurrence had taken place on 17.09.2008 in which Shamsher Singh (petitioner) alleged to have received injuries at the hands of respondent Nos.2 to 5. After trial learned Judicial Magistrate First Class, Kaithal, vide his judgment of conviction dated 12.10.2012 held the private respondents guilty for the offences punishable under Sections 323 read with Section 34 and 325 read with Section 34, IPC, and while passing the order of sentence held as under:-

“Keeping in view the seriousness and gravity of offence, I am not inclined to take leniency on the convicts. In the present circumstances, the convict deserves punishment. Accordingly, they are sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.100/- each for the commission of offence punishable under Section 323 read with Section 34 of Indian Penal Code and in default of payment of fine, they shall further undergo SI for a period of 15 days and further the convicts are sentenced to undergo simple imprisonment for a period of one year and to pay fine of Rs.200/- for the commission of offence punishable under Section 325 read with Section 34 of Indian Penal Code and in default of payment of fine, they shall further undergo S.I for a period of one month. All sentences shall run concurrently. The period already spent in custody shall be set off from the substantive offence. Bail bonds and surety bonds of the convicts are hereby forfeited to the State. The case property, if any, be disposed of as per the rules after the expiry of period of appeal/revision. Copy of the judgment of conviction and order of quantum, be supplied to the convicts.”

Dissatisfied with the judgment of conviction and order

of sentence, the private respondents filed an appeal before the Court of Session. While upholding the conviction, learned Appellate Court modified the order of sentence and released the private respondents on probation. The operative part of the order passed by learned Appellate Court is as under:-

“In view of the above discussion and after careful perusal of case file, this Court is of the considered opinion that despite of the fact that the appellants-accused persons have been convicted for commission of offence punishable under Section of 325 of IPC, they should be released on concession of probation as in the considered opinion of the Court, they deserve a chance to improve themselves and none of them is a previous convict. They are of young age. However, at the same time, the interest of victim of their offence is also required to be protected and he requires to be compensated. Accordingly, interest of justice demands that the amount of fine imposed upon the appellants-accused persons by the learned Trial Court should be enhanced. Accordingly, for commission of offence punishable under Section 325 read with Section 34 of IPC, the amount of fine is enhanced to Rs.5,200/- each instead of Rs.200/- each. This enhanced fine i.e total ₹ 15,000/- is ordered to be

paid to the victim/complainant. It is not disputed even from the side of State that they are not the sole bread earners of the families. Accordingly, the appeal preferred by the appellants-accused persons qua the judgment of conviction dated 12.10.2012 is dismissed upholding the conviction of the appellants-accused persons. However, the order of sentence dated 13.10.2012 is modified to the extent that the appellants-accused persons are ordered to be released on probation of good conduct for a period of one year subject to furnishing the probation bonds in the sum of ₹ 25,000/- with one surety in the like amount. Requisite probation bonds furnished which are accepted and attested. However, in case of breach of the condition of the probation bond they shall be liable to undergo the sentence of imprisonment as awarded against them by the learned trial Court. Fine also paid. A copy of this judgment along with trial Court record be sent back. The Id. Trial Court shall make arrangements to pay the amount of compensation to the victim/complainant of the case. Appeal file be consigned to the record room, after due compliance.”

This Court has independently perused the facts and

finds that the order releasing the private respondents on probation is well-based. Cogent reasons have been assigned in that regard by the Appellate Court. So far as the compensation is concerned, this Court is satisfied that adequate compensation has already been ordered to be paid to the petitioner-complainant.

In view of the above, no ground is made out to interfere by this Court while exercising the revisional jurisdiction.

Dismissed.

February 04, 2016
seema

(Naresh Kumar Sanghi)
Judge