

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.804 of 2016

Date of Decision: 01.12.2016

Rachna Ram & others

...Petitioner(s)

Versus

Kashmiri Lal @ Kashmira & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Rahul Vats, Advocate
for the petitioners.

HARI PAL VERMA J.

Petitioners have filed the present revision petition against judgment dated 27.11.2015 passed by learned Sessions Judge, Panchkula, whereby though their appeal against the judgment of conviction dated 9.1.2015 passed by learned Judicial Magistrate Ist Class, Panchkula was dismissed, however, the order of sentence awarded to the petitioners was modified and they have been ordered to be released on probation for good conduct under Section 4 of the Probation of Offenders Act, 1958, on furnishing personal bonds in the sum of Rs.15,000/- with one surety of the like amount each, subject to the condition that they shall keep peace and be of good behaviour for a period of two years.

Learned Judicial Magistrate Ist Class, Panchkula, vide judgment dated 9.1.2015 has held the petitioners guilty for commission of offence under Section 323 read with Sections 148 and 149 IPC and vide separate order dated 12.1.2015, sentenced them to undergo RI for 6 months

for offence under Section 148 IPC and to further undergo RI for 6 months and pay fine of Rs.500/- each and in default of payment of fine, to further undergo RI for one month. All the sentences were ordered to run concurrently.

Aggrieved from the aforesaid judgment of conviction and order of sentence, the petitioners preferred an appeal before learned Sessions Judge, Panchkula, whereupon learned lower Appellate Court though dismissed the appeal but modified the order of sentence, as stated above.

Still aggrieved, the petitioners have filed the present revision petition challenging the judgment and order of sentence passed by learned lower Appellate Court.

I have heard learned counsel for the petitioner.

It is the pleaded case of the petitioners that they are first time offenders and have already faced the protracted trial for the last more than seven years. Para 31 of the judgment passed by the lower Appellate Court reads as under:-

“31. Apprehending this situation, it was also argued by the learned counsel for both the parties that apart from the present dispute, no further dispute book place between the parties after this litigation and as such, keeping in view the fact that all the appellant-accused are the first offenders and they have already faced the unprotracted trial for the last more than six years, it is a fit case where the benefit of probation can be granted to them, which has been declined by the learned trial Court without assigning any reasons.”

It is the proved case of both the parties that they have caused injuries to each other in a free fight. Since the petitioners are first time offenders and they are facing the agony of protracted trial for the last more than seven years, they were rightly given the benefit of probation by learned lower Appellate Court. Moreover, there is no scope for interference by this Court in revisionary jurisdiction by re-appreciating the evidence. Reference may be made to judgment of Hon'ble the Apex Court in the case of **Johar and others Versus M/s Mangal Prasad and another 2008(3) SCC 423**, wherein Hon'ble Apex Court while dealing with the scope of interference by High Court in the revisional jurisdiction, has observed as under:

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under Sections 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

In view of the above, I find no reason to interfere in the impugned judgment and order passed by the Court below.

Accordingly, the revision petition is dismissed.

December 01, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No