

2. The informant has approached this Court under Section 372 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) against the judgment of conviction dated 20th April, 2016 passed in Sessions Trial No. 02 of 2005 (arising out of Sandesh P.S. Case No. 121 of 2000, G.R. No. 3226 of 2000) by the learned 3rd Additional Sessions Judge, Bhojpur, Ara (hereinafter referred to as “Trial Judge”). The appeal has been filed with an interlocutory application i.e. I.A. No. 1603 of 2017 under Section 378(3) of Cr.P.C. for grant of leave. By the said judgment, the learned Trial Judge has acquitted all the respondents from the offences under Sections 307, 148, 149 of the Indian Penal Code, however; the learned Trial Judge held the respondents guilty and convicted them for offence under Sections 323/504 and 147 of the Indian Penal Code. The learned Trial Judge, considering the fact that the case was of the year 2000, accused persons were not accused in any other case as well as the fact that at least four accused persons were more than 60 years old, has extended the benefit to the accused persons under Section 3 of the Probation of Offenders Act, 1958.



3. Sri Ajay Kumar Singh, learned counsel for the appellant submits that it was specific case of the informant (appellant), who is P.W.-7, that in the occurrence, the accused persons had used lethal weapon like *farsa*, *rami* and *lathi*, however; he agreed that during trial, neither injury report was produced nor doctor was examined, even the investigating officer had not come forward to support the prosecution case.

4. The Court is of the opinion that in absence of injury report, it was difficult for the learned Trial Judge to held respondents guilty for offence under Section 307 of the Indian Penal Code.

5. So far as offence under Sections 323, 147 and 504 of the Indian Penal Code is concerned, the learned Trial Judge, considering the oral evidence of the witnesses, has rightly held them guilty, but considering the fact that case was of the year 2000 and all the accused persons were not accused in any other case as well as the fact that at least four accused persons were more than 60 years old, he has rightly passed the order and granted benefit under Section 3 of the Probation of offenders Act, 1958. The judgment



under challenge requires no interference.

6. Accordingly, the petition for grant of leave i.e. I.A. No. 1603 of 2017 filed under Section 378 (3) of the Cr.P.C. stands rejected. Consequently, the appeal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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