

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

**CRR No. 2174 of 2008(O&M)
Date of decision : 29.09.2017**

Zile Singh and others

..... Petitioners

versus

Vinod Kumar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sudhir Sharma and Mr.Mandeep Kaushik, Advocates
for the petitioners.

Mr.Deepinder Singh, Advocate for respondent No.1.

Mr. R.K.Makkad, DAG, Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

KULDIP SINGH, J. (Oral)

Custody certificates of petitioner Zile Singh, Jagbir and Jeldar
have been filed in Court today and the same are taken on record.

Lower Court file examined.

Heard.

Learned counsel for the petitioners presses the petition only on
the quantum of sentence.

A criminal complaint filed by Vinod Kumar, respondent No.1
against the present petitioners namely Zile Singh, Jeldar and Jagbir wherein
they were convicted by the trial Court under Sections 379, 427, 447 and 506
of the IPC and sentenced to undergo rigorous imprisonment for one year

each with fine of ₹ 500/- each, in default thereof, simple imprisonment for one month each under Section 379 IPC. They were further sentenced to undergo rigorous imprisonment for six months each and fine of ₹ 1,000/- each, in default thereof simple imprisonment for one month each under Section 427 IPC. They were further sentenced to undergo rigorous imprisonment for three months each under Section 447 IPC and rigorous imprisonment for six months each under Section 506 IPC. Four other ladies namely Smt.Chandrawali, Smt.Chandro, Smt. Brijo and Smt.Indro were released on probation by the trial court vide judgment of conviction and order of sentence dated 14.05.2004. The appeal filed by the present petitioners was dismissed on 07.10.2008 by Additional Sessions Judge, Bhiwani.

Learned counsel for the petitioners, by referring to the revenue record which is on file, has pleaded that the parties were co-sharers. The dispute was regarding partition. The present petitioners have claimed that they were in actual possession whereas as per revenue record the complainant was in possession. However, the petitioners could not prove the same before the Court. Therefore, technically it was a dispute between co-sharers regarding possession in which the allegations of trespass, intimidation and theft of crop were levelled. The prayer is for releasing the petitioners on probation.

Considering that it is a dispute between co-sharers regarding possession and the petitioners are facing the trial since 1985 i.e. for 22 years now, while maintaining conviction of the petitioners under Sections 379, 427, 447 and 506 IPC, the substantive sentence passed upon them is set aside and they are ordered to be released on probation on their furnishing

probation bonds in the sum of Rs.10,000/- with one surety of the like amount under Section 5(1) of the Probation of Offenders Act, 1958 for a period of one year with an undertaking to maintain peace and be of good behaviour, failing which they will surrender before the trial Court to undergo the remaining part of the sentence. It is further directed that the conviction of the petitioners shall not be treated as disqualification for any purpose under Section 12 of the Probation of Offenders Act, 1958. Petitioners are directed to furnish probation bonds before the trial Court within a period of two weeks from the date of receipt of a certified copy of this order. They are also ordered to pay ₹ 20,000/- each as compensation to the complainant under Section 357 Cr.P.C.

(KULDIP SINGH)
JUDGE

September 29, 2017
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No