

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

CRR No.2479 of 2008

Date of decision: 14th March, 2017

Parveen Kumar @ Mina

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Harprateek S. Sandhu, Advocate
Amicus Curiae for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

This is a revision preferred by convict petitioner Parveen Kumar alias Mina who was initially found guilty by the Court of learned Sub Divisional Judicial Magistrate, Dabwali through judgment dated 11.10.2005/13.10.2005 under Section 326 IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.3000/- and in default of payment of fine to further undergo simple imprisonment for one month.

The convict had preferred an appeal against this finding before the first appellate Court of learned Additional Sessions Judge, Fast Track Court, Sirsa and through impugned judgment dated 05.11.2008 the appeal of the petitioner convict was partly allowed and judgment modified acquitting him for offence under Section 326 IPC

and instead he was convicted under Section 324 IPC and sentenced to undergo rigorous imprisonment for nine months. However, the sentence of fine imposed upon him remained intact. The same is subject matter of challenge before this Court.

Upon hearing learned Amicus Curiae Mr. Harprateek Singh Sandhu, Advocate representing the petitioner and Mr. Munish Sharma, Asstt. Advocate General, Haryana on behalf of the respondent/State.

The brief allegations are that on 29.07.1999 the police of Police Station Odhan received V.T. regarding admission of Darshan Singh in Government Hospital at which ASI Ajay Kumar went to the hospital and recorded statement of the injured. In his statement, the injured alleged that he was running a business of selling milk as he was maintaining four buffalos and it was on 28.07.1999 at around 8.30 p.m. when he had gone to the shop of one Parveen Kumar for giving milk, there Jarnail Singh, Jagga Singh, Babu Singh and Jeeri were present and when he demanded money from the accused petitioner Parveen Kumar the accused threw a bucket containing acid on him as a result of which the complainant suffered burn injuries on his abdomen leading to registration of the FIR.

Prosecution examined PW1 Darshan Singh, PW2 Jeeri Singh, PW3 Babu Singh, PW4 Dr.Viresh Bhushan, PW5 Constable Subhash Chander, PW6 Dr.Bhushan Garg, PW7 Parhlad Singh ASI and

PW8 investigating officer ASI Ajay Kumar. In the process, prosecution proved documents Ex.PW4/A, Ex.PW4/B, Ex.PW4/C, Ex.PW4/D, Ex.PW6/A, Ex.PW6/B, Ex.PW8/A, Ex.PW8/B, Ex.PW8/C, Ex.PW8/D, Ex.PW8/E, Ex.PW8/F and Ex.PW8/G. The entire evidence oral as well as documentary was put to the accused in his statement under Section 313 Cr.P.C. who denied the same and examined in his defence DW1 Ashok Kumar and DW2 Jaggar Singh leading to the judgment of conviction.

Learned counsel for the petitioner at the very onset of his submissions has canvassed that the occurrence is alleged to have taken place on 29.07.1999 and for almost 17 years the petitioner had suffered the rigor of investigations, prosecution and conviction and the Sword of Damocles has remained hanging on his head throughout and has already undergone incarceration for a period of more than seven-and-a-half months which is duly acceded to at the bar by learned State counsel who has already placed on record custody certificate to this effect.

The convict petitioner has been found guilty for commission of an offence under Section 324 IPC which is not very heinous in nature. Apparently there is a dispute over money. The petitioner at the time of occurrence was young and as on date has his family to support and has already suffered enormously besides the fact that the courts below have failed to consider the plea of the petitioner for grant of probation under

the very provisions of Section 360 Cr.P.C. and nothing has elicited from the impugned findings why this concession has been denied to the petitioner. These provisions have been specially enacted to further the cause of justice and to ensure that the persons who are not habitual criminals do not become wayward and give up the path of rectitude. If the petitioner is sent to custody certainly to the mind of this Court would give him an opportunity of mixing with the bad elements and thus, may bring about ills in the society besides the fact his family would suffer enormously on account of the same as he is as stated by learned State counsel the sole breadwinner of his family with growing up children. Thus, in the totality of circumstances, in view of the offence for which the petitioner has been convicted and taking a holistic approach commensurate with the reformatory theory of criminal jurisprudence, this Court holds that the petitioner is certainly entitled to due consideration for grant of probation. In the light of the same, upholding the findings of conviction which are not even challenged by learned counsel for the petitioner in his submissions, the impugned judgment is modified thereby the petitioner is allowed concession of probation in terms of Section 4 of the Probation of Offenders Act, 1958 for a period of one year on his entering into a bond in the sum of Rs.25,000 with one surety of the like amount to the satisfaction of the trial Court undertaking therein that he shall keep peace and maintain good

behaviour and shall appear and receive sentence as and when called upon to do so during the said period.

The revision petition stands disposed off with these modifications.

(FATEH DEEP SINGH)
JUDGE

March 14, 2017
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No