

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

**CRR No.2365 of 2009 (O&M)
Date of decision : December 04, 2017**

Jagdish Chand and another **Petitioners**

Versus

State of Haryana and another **Respondents**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rahul Garg, Advocate for
Mr. Vivek Suri, Advocate for the petitioner.

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

Mr. Sudhir Pruthi, Advocate for the complainant.

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

KULDIP SINGH J. (ORAL)

Heard on the point of quantum of sentence only.

While convicting the petitioners for the commission of offences punishable under Sections 323 and 325 read with Section 34 IPC, the learned Judicial Magistrate 2nd Class, Panchkula, vide judgment of conviction and order of sentence dated 13.03.2008 released them on probation on their furnishing probation bonds in the sum of ₹50,000/- each with a surety in the like amount for a period of two years to maintain good conduct/behaviour and peace. In all, there were three accused. Out of them, Bantu Ram son of Kanshi Ram died during the pendency of the appeal. The remaining two are the petitioners in the present case.

In the appeal filed by the complainant, learned Addl. Sessions Judge, Panchkula, vide judgment dated 31.08.2009 modified the sentence of the petitioners and sentenced each of them to undergo rigorous

imprisonment for 3 months and to pay a fine of ₹10,000/- each, in default thereof to further undergo simple imprisonment for 15 days each for the commission of offence punishable under Section 325 IPC. They were also sentenced to undergo rigorous imprisonment for one month each for the commission of offence punishable under Section 323 IPC.

Prayer of learned counsel for the petitioners is for restoring the benefit of probation granted to the petitioners by the learned Judicial Magistrate 2nd Class, Panchkula.

The said prayer has been opposed by learned counsel for the complainant on the ground that due to the injury, the complainant lost the right lower incisors. He contends that the probation of the petitioners was rightly reversed by the learned Addl. Sessions Judge, Panchkula.

Learned counsel for the petitioners has referred to the following authorities to press that in case, the crime is committed, the adequate sentence should have been awarded:

1. *“State of Maharashtra v Jagmohan Singh Kuldeep Singh Anand and others”*, (2004) 7 SCC 659.
2. *“Lacchiram vs State of Madhya Pradesh”*, 1990 CrL. L.J.2229
3. *“Kuldeep Singh and another v State of Punjab”*, 1994 CrL. L.J. 2201.
4. *“Bhupinder Singh v State of Punjab”*, 2001(1) All India Criminal Reporter, 61.

In the present case, the complainant has not come in revision for enhancement of the sentence. In this case, the maximum sentence awarded to the petitioners is rigorous imprisonment for three months each.

I am of the view that in case of such sentence of rigorous imprisonment for three months, if the petitioners are kept in jail, it is likely to make them harden criminals. If learned Addl. Sessions Judge, Panchkula was of the view that the sentence awarded to the petitioners is inadequate, he should have passed more severe sentence upon them. The complainant appears to be satisfied with the sentence awarded to the petitioners as he has not filed any revision for enhancement of sentence.

Considering that the sentence awarded to the petitioners is rigorous imprisonment for three months each, I am of the view that the order dated 13.03.2008 passed by the learned Judicial Magistrate 2nd Class, Panchkula, releasing the petitioners on probation, is to be restored. As such, the judgment dated 31.08.2009 passed by the learned Addl. Sessions Judge, Panchkula, sentencing the petitioners, is set aside and the judgment and order dated 13.03.2008 passed by learned Judicial Magistrate 2nd Class, Panchkula, is restored.

Accordingly, the present revision petition is allowed.

(KULDIP SINGH)
JUDGE

December 04, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No