

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

**CRR-4307-2016 (O&M)**

**Date of decision: 18.09.2017**

Rupinder Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:      Mr. Anurag Arora, Advocate  
                    for Mr. Karan Pathak, Advocate  
                    for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this revision is for setting aside the order dated 16.08.2016 to the extent that the Lower Appellate Court, while granting the benefit of probation to the petitioners, has not extended the benefit of Section 12 of Probation of Offenders Act.

Brief facts of the case are that the trial Court, vide judgment dated 30.09.2015, convicted the petitioners under Section 323, 324, 325, 506 IPC read with Section 34 IPC and vide order of sentence dated 30.09.2015 imposed two years rigorous imprisonment with fine.

The petitioners challenged the said judgment by way of filing an appeal before the Lower Appellate Court and the Lower Appellate Court vide its judgment dated 16.08.2016, released the petitioners on probation. The operative part of the order of the Lower Appellate Court, dated 16.08.2016 is reproduced as under:-

*“ 37. The object of punishment is not only to be retributive but also to be reformative. In the case in hand there is only one injury to the complainant which has been caused by*

*sharp edged weapon rest all injuries are blunt in nature as opined by the doctor. The appellants Sarabjit Singh, Amarjit Kaur and complainant PW1 and PW2 are related to one another and may live in peace in future. Admittedly, litigation is pending between them. Amarjit Kaur is about 65 years, Sarbjit Singh about 43 years, Rupinder Singh about 34 years and Simran Singh is about 33 years of age as mentioned in their statements recorded under Section 313 Cr.P.C. They are first offenders and not previous convicts as there is nothing as such on the record. Even modern trend of penology also leans towards reformation of offenders so as to make them useful citizen of society. FIR in this case was registered in the year 2008 and since the year 2009 appellants have been facing trial and after the conviction in the year 2015, appearing before the appellate court. Taking into consideration all above mentioned facts and circumstances, this Court is of the view that it is expedient to grant the benefit of probation to the appellants under section 4 of the Probation of Offenders Act 1958. The probation of Offenders Act 1958 is a milestone in the progress of the modern trend of reform in the field of penology. It is the result of recognition of the doctrine that the object of criminal law is more to reform an individual offender than to punish him. As such however the conviction of the appellants under Sections 324, 323, 34, 506 IPC has been upheld but the order on the quantum of sentence under said provisions of IPC is hereby modified. Instead of awarding the substantive sentence as per order of Ld. trial Court under the said provisions of IPC, they /appellants are ordered to be released on probation on their furnishing probation bonds in the sum of Rs.50,000/- with on surety each in the like amount for a period of one year and to appear and receive the sentence whenever called upon during such period and in the meantime to keep peace and be of good behaviour. Fine deposited by the appellants before the learned Trial Court be treated as costs of litigation.*

*38) With the above modification in the sentence the appeals*

*are partly allowed.*

*39) One copy each of this judgment be placed on the connected files. Trial Court record along with copy of judgment be sent back and appeal files be consigned to the record room.*

*Announced/16.08.2016”*

Learned counsel for the petitioners submitted that the order of conviction is causing serious effect on the career of the petitioners as the petitioners are likely to settle abroad for their livelihood and now facing serious difficulty as they are not in a position to prepare the documents to pursue their career abroad.

Learned counsel for the petitioners has relied upon the judgment of **2011 (2) RCR (Criminal) 855 Paramjit Singh vs. State of Haryana** where, while allowing a criminal appeal filed by the accused person, this Court has granted the benefit of Section 4 of the Probation of Offenders Act and has released the accused on probation with the conditions that he shall execute a bond for good behaviour for a period of two years and he shall be subject to the supervision of the Probation Officer, subject to the conditions laid down in Probation of Offenders Act. It was also held that since the accused was released on probation, the same may not effect on his service career, in view of Section 12 of the Probation of the Offenders Act.

Learned counsel for the petitioners has further submitted that as per judgment dated 16.08.2016, passed by the Lower Appellate Court vide which, the petitioners were released on probation for a period of one year, the said period has already expired and during the intervening period, the petitioners have neither misused the concession of probation nor are

involved in any other such a similar case. Learned counsel for the petitioners further submitted that they have already furnished the probation bond as per the directions given in the judgment order dated 16.08.2016 and, therefore, they should be granted the benefit in view of Section 12 of the Probation of Offenders Act.

Considering the limited prayer made by the petitioners that they are young persons and they want to pursue their career abroad and the judgment dated 16.08.2016 granting them probation, may not effect their service career, it is clarified that the petitioners who were released on probation and period of probation already been over and subsequently, the petitioners were not found in any other case or misusing the concession of probation, the judgment dated 16.08.2016 may not effect the service career of the petitioners, in view of Section 12 of the probation of Offenders Act.

Disposed of.

(ARVIND SINGH SANGWAN)  
JUDGE

18.09.2017

Hemlata

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|---------------------------|----------|
| Whether speaking/reasoned | Yes / No |
| Whether reportable        | Yes / No |