

218.

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

CRR-4848-2016

Date of decision:03.08.2017

SHINGARA SINGH

.... Petitioner

versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Nitin Rampal, Advocate,
for the petitioner.

HARI PAL VERMA, J.

The petitioner-complainant, namely, Shingara Singh has filed the present revision petition against the judgment dated 22.08.2016 passed by learned Additional Sessions Judge, Ferozepur, whereby the accused, namely, Kashmir Singh, Kuldeep Singh and Balwinder Singh @ Billa (respondents No.2 to 4 herein) were extended the benefit of probation under the Probation of Offenders Act, 1958.

Briefly stated, an FIR No.54, dated 23.07.2013 under Sections 341, 323, 506, 34 IPC, Police Station Lakho Ke Behram, was registered against the respondents-accused on the basis of statement made by the petitioner (herein referred as 'complainant'). As per the statement made by complainant, on 20.07.2013 at about 11.00 AM, when he had taken his cattle to the village pond, the accused who were armed with *soti* each, came there and started using filthy/abusive

language. When the complainant asked them why they are doing so, the accused encircled the complainant and threw him down on the ground and caused injuries to him by inverting him. Respondent No.3-Kuldeep Singh pulled the moustache of the complainant. The complainant raised *roula* which attracted his brother-Kashmir Singh, who rescued the complainant. When many people gathered at the spot, the accused fled away from the spot along with their respective weapons while giving threats to the complainant that they will eliminate him. The motive behind the occurrence was that the land of the complainant adjoins the land of the accused and the accused have restrained the complainant to use the common path (watt). After the incident, the complainant was taken to Civil Hospital, Mamdot, where he was medically examined. However, efforts were made to compromise the matter and when the compromise could not be effected, the complainant got his statement recorded, leading to registration of a formal FIR.

Vide judgment dated 05.04.2016, learned Judicial Magistrate Ist Class, Guruharsahai found that the offence under Sections 341 and 323 IPC was proved against the accused as they had wrongly restrained the complainant and voluntarily inflicted injuries to him on the date of incident. Accordingly, the accused were convicted and sentenced as under:-

<i>“Sr. No.</i>	<i>Name of the convict</i>	<i>Convicted U/s</i>	<i>Sentence.</i>
1.	Kashmir Singh	341 IPC	Fine to the tune of Rs.500/-. In default of fine, to undergo rigorous imprisonment for 30 days.

		323 IPC	RI for Six months and to pay fine of Rs.500/-. In default thereof to further undergo rigorous imprisonment for 30 days.
2.	Kuldeep Singh	341 IPC	Fine to the tune of Rs.500/-. In default of fine, to undergo rigorous imprisonment for 30 days.
		323 IPC	RI for Six months and to pay fine of Rs.500/-. In default thereof to further undergo rigorous imprisonment for 30 days.
3.	Balwinder Singh	341 IPC	Fine to the tune of Rs.500/-. In default of fine, to undergo rigorous imprisonment for 30 days.
		323 IPC	RI for Six months and to pay fine of Rs.500/-. In default thereof to further undergo rigorous imprisonment for 30 days.

All the substantive sentences of imprisonment were, however, ordered to run concurrently.

Against the aforesaid judgment dated 05.04.2016 passed by learned Judicial Magistrate Ist Class, Guruaharsahai, the respondents-accused preferred an appeal. Learned Additional Sessions Judge found that the judgment passed by the trial Court is based on proper appreciation of evidence and law and the accused were rightly held guilty and convicted for the offence under Section 341 and 323 IPC. However, considering the fact that the accused were first time offenders and when this fact was not contradicted by the complainant, coupled with the fact that the accused Balwinder Singh is aged about 20 years, accused Kashmir Singh has two minor children, whereas Kuldeep Singh is aged about 25 years having two minor daughters and they are the only bread winners of their respective families, learned Sessions Judge, vide judgment dated 22.08.2016, modified the sentence and released the respondents-accused on probation under Section 4(1)

of the Probation of Offenders Act, 1958 on their furnishing personal bond in the sum of ₹25,000/- with one surety each, in the like amount with an undertaking to appear and receive the sentence as and when called within a period of six months and in the meantime to keep peace and be of good behaviour. In addition to above, the accused were also directed to pay ₹2,000/- each as compensation to the complainant.

Dissatisfied with the aforesaid judgment dated 22.08.2016 passed by learned Sessions Judge, the petitioner has filed the present revision petition.

Learned counsel for the petitioner has argued that the prosecution has succeeded in proving its case and the accused were convicted for offence under Sections 341 and 323 IPC, but the learned Sessions Judge has committed error in releasing the respondents-accused on probation for commission of these offences. The accused were rightly sentenced by the learned Magistrate vide judgment dated 05.04.2016.

I have heard learned counsel for the petitioner.

This Court finds that the judgment passed by the learned Sessions Judge is a well reasoned one. The Lower Appellate Court has upheld the conviction of the respondents-accused for the offence under Sections 341 and 323 IPC, however, on the question of quantum of sentence, it was found that all the accused are first time offenders. Accused-Balwinder Singh and Kuldeep Singh are young persons aging between 20 to 25 years. Kuldeep Singh is the father of two minor

daughters. Similarly, Kashmir Singh has two minor children. The accused are the only bread winners of their respective families. Therefore, they were released on probation as detailed in the judgment.

This Court feels that the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from a judgment of Hon'ble the Apex Court in the case of **Karamjit Singh Versus State (Delhi Admn.)-2001(9) SCC 161**, wherein the observations made are as under:-

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not

be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Keeping in view the ratio of law laid down in the abovementioned judgment and fact that the respondents-accused have not crossed the age whereafter they cannot be reformed, particularly when no other criminal case has been pointed out against them coupled with the fact that they are facing the agony of trial for the last about four years, the order passed by learned Sessions Judge, Ferozepur, releasing them on probation, does not warrant any interference.

Taking into consideration the nature of injuries which are all simple bruises, this Court finds that there is no illegality in the judgment passed by the court below.

Accordingly, the present revision petition stands dismissed.

(HARI PAL VERMA)
JUDGE

03.08.2017
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.