

..

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

CRR No. 4934 of 2016.

DATE OF DECISION: 05.12.2017.

Somwati and others

.... Petitioners.

Versus

State of Haryana and others

... Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Narender Pal Bhardwaj, Advocate,
for the petitioners.

Mr. Satish Saini, Deputy Advocate General, Haryana.

Mr. Y.S.Rathore, Advocate,
for respondents no. 2 to 6.

SHEKHER DHAWAN, J.

The present revision petition by the complainant-injured under Section 401 Cr.P.C. is directed against the judgment dated 26.10.2016 passed by learned Additional Sessions Judge, Karnal, vide which the appeal preferred by accused (respondents No.2 to6 herein), against the judgment of conviction dated 03.05.2013 passed by learned Judicial Magistrate Ist Class, Karnal was dismissed, with modification in the order of sentence dated 04.05.2013, thereby ordering the accused (respondents No.2 to 6 herein) to be released on probation of good conduct on their furnishing bonds in the sum of Rs.50,000/- with one surety in the like amount for a period of one year with further directions to keep peace and

..

be of good behaviour during the said period, failing which they were directed to make themselves available to receive the sentence as and when called upon. The respondents No. 2 to 6 were further directed to pay a sum of Rs.10000/- each as compensation to the injured of this case to be disbursed to the complainant and injured in equal share.

2. The accused-respondents No. 2 to 6 were held guilty by learned trial Court and were convicted and sentenced as under:-

Under Section	Sentence	In default
323 read with Section 34 IPC	to undergo Simple Imprisonment for six months.	-
325 read with Section 34 IPC	to undergo Simple Imprisonment for one year and six months and to pay a fine of 8000/-.	to further undergo imprisonment for three months each.

3. Learned counsel for the petitioners submitted that the injured in this case had sustained grievous injuries and the order passed by learned Additional Sessions Judge thereby releasing respondents No.2 to 6 on probation deserves to be set-aside and the judgment of conviction and order of sentence passed by the trial Court is liable to be upheld by this Court.

4. Learned State counsel and learned counsel for respondents No. 2 to 6 contended that the order passed by learned Additional Sessions Judge, Karnal is perfect and legal order and the Court below has passed the impugned order after taking into consideration the fact that the private respondents are first time offender and deserve the opportunity to reform themselves.

5. Having considered the submissions made by learned counsel for the parties and appraisal of the facts of this case, this Court is of the considered view that learned Additional Sessions Judge while deciding the

..

appeal filed by the convicts had taken into consideration the facts that they were not previous convicts and in case they are released on probation, that shall be affording an opportunity to the parties to live peacefully. Accordingly, the appeal against judgment of conviction was dismissed. However, the order of sentence was modified to the effect that the accused persons were ordered to be released on probation of good conduct on their furnishing bonds in the sum of Rs.50,000/- with one surety in the like amount for a period of one year with further directions to keep peace and be of good behaviour during the said period, failing which they were directed to make themselves available to receive the sentence as and when called upon. The respondents No. 2 to 6 were further directed to pay a sum of Rs.10000/- each as compensation to the injured of this case to be disbursed to the complainant and injured in equal share.

6. There is absolutely no illegality in the order passed by learned Additional Sessions Judge because the offences alleged against the accused and conviction having been recorded is under Sections 323 and 325 IPC. As per view taken by Hon`ble Supreme Court in **Hari Kishan and States of Haryana Vs. Sukhbir Singh, 1988(2) R.C.R. (Criminal) 394** and by this Court in **State of Punjab Vs. Kuldip Singh and others, 2007(2) R.C.R. (Criminal) 670** and **Ram Kumar Vs. State of Haryana, 2000 (1) R.C.R. (Criminal) 771**, accused persons involved in such like cases, who are not previous convicts and not habitual offenders, can be extended the benefit of probation under the Act. Learned first Appellate Court had rightly decided the appeal while modifying the order of sentence and passed order of release of the accused-persons on probation of good conduct on their furnishing bonds in the sum of Rs.50,000/- with one surety in the like amount for a period of one year besides allowing compensation

..

in favour of the injured of this case. There is absolutely no infirmity in the well reasoned judgment of learned Additional Sessions Judge and the present revision petition is without any merit.

7. Resultantly, the present revision petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

05.12.2017.
som

Whether Speaking/reasoned	:	Yes
Whether Reportable	:	Yes