

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

CRR No.12 of 2017

Date of decision: 8th November, 2017

Partap Singh and others

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.S. Mor, Advocate for the petitioners.

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

FATEH DEEP SINGH, J.

Petitioners Partap Singh, Rajesh, Hawa Singh and Risal Singh were initially tried by the Court of learned Sub Divisional Judicial Magistrate, Tohana, District Fatehabad along with Sanjay, Kartar Singh and Rahul in FIR No.326 dated 02.10.2009 under Sections 148, 323, 324, 325, 452, 506 IPC read with Section 149 IPC pertaining to Police Station City Tohana and through judgment dated 06.03.2014 all the accused were held guilty under Sections 148, 323, 324, 325, 149 IPC and they were convicted and sentenced as under:

Section

Imprisonment awarded

148 r/w 149 IPC	Sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period
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of 15 days.

323 r/w 149 IPC Sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.200/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period of 15 days.

324 r/w 149 IPC Sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.300/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period of one month.

325 r/w 149 IPC Sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.500/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period of one month.

Whereas, all the accused were acquitted under Sections 452 and 506 IPC.

The same was challenged by the convicts as well as the complainant by way of two separate appeals and the learned Additional Sessions Judge, Fatehabad through impugned common judgment dated 06.12.2016 disposed off both the appeals holding that the appeal by the complainant namely Surajbhan stood dismissed whereas appeal preferred by Partap Singh, Rajesh, Hawa Singh, Risal Singh, Sanjay, Kartar Singh

and Rahul stood partly accepted. The same is subject matter of challenge in this criminal revision.

Heard Mr. S.S. Mor, Advocate for the petitioners and Mr. Munish Sharma, Asstt. Advocate General, Haryana on behalf of the respondent/State.

At the very onset, Mr. Mor has contended that the petitioners be granted concession of probation for having faced the trial since 2009 and the fact that offences for which they have been convicted are not of heinous nature. Though, learned State counsel has strongly opposed grant of relief but accepts the offences for which the accused petitioners have been convicted and argued that if they are released on probation they will create law and order situation and thus, it was not conducive to release them on probation.

Appreciating the submissions, provisions of Section 360 Cr.P.C. have been enacted with a definite purpose to ensure that first time offenders are given chances of reformation and if they are sent to prison they will be made to mix with hardened criminals and would give up the life of good citizens and might follow the path which would not be conducive for the society at large. The courts below did not consider nor passed any such speaking orders as to why benefit of probation under Section 360 Cr.P.C. is being denied to the petitioners when the offences for which they have been convicted, are not of heinous nature and only simple injuries with a grievous injury by blunt means is attributed and since the alleged offence in the year 2009 they have been facing

ignominy of trial and upon conviction their appeal was pending and thereafter upon dismissal of the appeal they have been sent behind bars and thus, have also undergone sufficient incarceration and must have a change of heart as to why they, under such a situation and grave provocation, had taken law in their hands and must have been repenting. The convicts are first time offenders having families and thus, their obligation to maintain them and to carry on their avocation needs to be sympathetically considered. The same was never considered by the Courts below.

In the light of the same, the petitioners are allowed concession of probation in terms of Section 4 of the Probation of Offenders Act, 1958 for a period of one year on their entering into a bond in the sum of Rs.10,000 each with one surety of the like amount each to the satisfaction of the trial Court undertaking therein that they 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 in those terms.

(FATEH DEEP SINGH)
JUDGE

November 8, 2017

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No