

In the High Court of Punjab and Haryana at Chandigarh

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Cr. Revision No.7 of 2016

Date of Decision:7.2.2017

Dayawanti

...Petitioner

v.

Nafe Singh

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Varun Jain, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed by the complainant/petitioner under Section 401 Cr.P.C. challenging the impugned judgment dated 21.10.2015 passed by learned Sessions Judge, Jind, whereby the appeal filed against the impugned judgment of conviction and order of sentence dated 16.9.2014 passed by learned Additional Chief Judicial Magistrate, Jind, convicting accused-Nafe Singh for the offence under Section 323 IPC and acquitting him for the offence under Section 506 IPC and sentencing him to undergo rigorous imprisonment for six months and to pay a fine of ₹1,000/- and in default of payment of fine to further undergo simple imprisonment for one month for the offence under Section 323 IPC, has been dismissed. However, the sentence of the accused has been modified and he has been released on probation of good conduct on his furnishing probation bonds in the sum of ₹50,000/- with one surety in the like amount for keeping peace and good behaviour for one year.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Smt. Dayawanti-complainant filed a complaint for the offences under Sections 323, 394, 406 and 506 IPC against Nafe Singh, Roshan, Jagmohan and Subhash. The brief facts of the complaint as mentioned in the judgment dated 16.9.2014 passed by learned Additional Chief Judicial Magistrate, Jind, are as under:-

“The present complaint under Sections 323/394/406/506 IPC was instituted by complainant Dayawanti against the accused on the allegation that in the evening of 23.7.2010 her son Yogesh had gone to the shop of accused No.1 namely Nafe Singh situated on the chowk of Village for getting his T.V. repaired. Thereafter, accused Nafe Singh opened the T.V. for making the repair but did not conduct any repairing work rather kept the T.V. with him and even refused to return the same. When the son of complainant demanded his T.V. back then accused Nafe Singh started to beat him and also snatched Rs.2000/- from his pocket. It is further alleged that accused No.2 to 4 were also present there and all of them were having common intention for beating her son and in furtherance of their common intention they gave beatings to him with dandas and iron rods by inflicting blows on his head, neck, back of chest, thigh, left leg and right ankle. After that a passerby had told the complainant that her son was being beaten up by the

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accused persons and then she alongwith her husband Mangat Ram as well as her another son Gobind reached at the shop of accused and found that all accused were beatings her son Yogesh and when she tried to save him then accused gave beatings to her also and to her husband and other son and the accused had also threatened to kill them in case they would demand the T.V. back. After the incident, the complainant went to Police Station Sadar Jind but the police asked her to come in the morning and then her son was taken up into the Civil Hospital, Jind for treatment but they referred him to CHC Kandela and although she went to CHC Kandela in the night also but none was found present there and then she took her son to CHC Kandela again in the morning where he was medico legally examined and even an application to SHO P.S. Sadar Jind was moved but no action was taken rather the accused persons were challaned only under Sections 107/151 Cr.P.C. Hence, the present complaint with the prayer that all the accused be summoned tried and punished in accordance with law.”

The learned Additional Chief Judicial Magistrate, Jind, on the basis of evidence convicted Nafe Singh-accused holding him guilty under Section 323 IPC and acquitted him under Section 506 IPC. Other accused had been acquitted. Nafe Singh was sentenced as mentioned above. Aggrieved from this judgment, an appeal was filed before the Court of Session. The learned

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Sessions Judge, Jind, vide judgment dated 21.10.2015 released the accused on probation though his conviction was upheld. Aggrieved from this order of probation, this criminal revision petition has been filed.

I have gone through the order of sentence passed by the learned Sessions Judge, Jind, and find that accused Nafe Singh, who is respondent in the present revision petition, was aged of 50 years and first offender and had suffered the trial for about four years, being poor person and also only bread earned of his family, this benefit of probation was given to him. He was ordered to be released on probation as mentioned above. The order of modification in the sentence and releasing him on probation in view of the reasoning as well as in view of the grounds mentioned by the learned Sessions Judge, Jind, as well as the fact that the accused was only convicted under Section 323 IPC, I find that no illegality has been committed by the learned Sessions Judge, Jind, in modifying the sentence.

Finding no merit in the criminal revision petition, the same is dismissed.

February 7, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No