

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**1. CRR No. 253 of 2017 (O&M)
Date of Decision: 28.03.2017**

Mohan Nagpal

...Petitioner

VERSUS

Vishwas Kumar Garg and another

...Respondents

2. CRR No. 733 of 2017 (O&M)

Harbans Lal

...Petitioner

VERSUS

Vishwas Kumar Garg and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Siddharth Gupta, Advocate
for the petitioner in CRR No. 253 of 2017.

Mr. S.S. Grewal, Advocate
for the petitioner in CRR No. 733 of 2017.

None for respondent no. 1.

Mr. Ashish Sanghi, DAG, Punjab.

SURINDER GUPTA, J.(Oral)

Above captioned revision petitions are being disposed of by this common order as these arise out of the same judgment and order of sentence dated 17.02.2014 passed by the trial Court.

2. Petitioners were convicted and sentenced to undergo simple imprisonment for a period of two years and to pay fine of ₹2000/- each for offence punishable under Section 500 of Indian Penal Code (for short 'IPC').

3. In appeal, learned Additional Sessions Judge reduced the substantive sentence from two years to simple imprisonment for one year

but maintained the sentence of fine.

4. Petitioners have filed these revision petitions challenging their conviction and sentence. However, during course of arguments, learned counsel for petitioners have confined their submissions only for a lenient view regarding the quantum of sentence and have not challenged the conviction of petitioners recorded under Section 500 IPC.

5. It has been submitted that petitioner-Harbans Lal (CRR No. 733 of 2017) is aged more than 60 years while petitioner-Mohan Nagpal (CRR No. 253 of 2017) is more than 71 years of age. Both are not previous convicts and have undergone more than 2 months and 10 days of imprisonment. They have suffered for the offence committed by them and keeping in view their old age, they may be released on probation.

6. Respondent no. 1 had filed complaint against petitioners with the allegation that in order to harm his reputation, petitioner-Harbans Lal in criminal conspiracy with petitioner-Mohan Nagpal published defamatory and false news-items against the complainant in newspaper 'Dainik Pilot' published simultaneously from Sirsa and Bathinda in its editions dated 01.04.2004, 05.04.2004, 09.04.2004 and 14.04.2004.

7. Complaint was filed on 04.02.2004 and after protracted trial version of the complainant was vindicated by the trial Court and both the petitioners were convicted and sentenced. While considering submissions of learned counsel for petitioners seeking benefit of probation for both the petitioners, I find that after a long litigation for 13 years and keeping in view the age and antecedents of petitioners; who are first offenders; are in the evening phase of their lives; coupled with the fact that they have already undergone more than 2 months and 10 days of imprisonment, I find it to be

a fit case where petitioners can be extended the benefit of probation.

8. Keeping in view above facts, judgment of Courts below convicting both the petitioners for offence punishable under Section 500 IPC is upheld. However, petitioners are ordered to be released on probation for a period of one year on furnishing probation bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Bathinda with undertaking that during the period of probation they will maintain peace and be of good behaviour and shall not indulge in any crime. They both are also directed to pay ₹50,000/- each as cost of litigation, in addition to the amount of ₹2000/- of fine already deposited by petitioners. Amount of fine shall also be treated towards cost of litigation. On payment of cost of litigation, they will be allowed to furnish probation bonds and out of cost of litigation ₹1 lac shall be paid to the complainant. It is, however, made clear that payment of this amount of ₹1 lac to the complainant is towards cost of litigation, he had to bear during this long period of about 13 years and will not be considered or adjusted towards any compensation, if allowed to the complainant for his defamation etc., by the Court in any separate suit or proceedings.

9. Both the revision petitions are disposed of in above terms.

March 28, 2017

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No