

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

**CRR No.3820 of 2017 (O&M)
Date of Decision:22.11.2017**

Gulab Singh and others Petitioners

Vs.

State of Haryana Respondent

CORAM:- HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashit Malik, Advocate for the petitioners.

 Mr. Ramesh Kumar Ambavta, AAG, Haryana.

 Mr. Vivek Goel, Advocate for the complainant.

Kuldip Singh, J.(Oral)

All the petitioners, namely, Gulab Singh, Dharambir, Narinder Singh, Barkha Ram, Om Parkash, Karan Singh and Jai Bhagwan were convicted and sentenced by the learned Judicial Magistrate Ist Class, Kurukshetra under Sections 323 and 147 IPC and sentenced to undergo Rigorous Imprisonment for one year and to pay a fine of ₹1,000/- each under Section 323 read with Section 149 IPC. They were also sentenced to undergo Rigorous Imprisonment for six months and to pay a fine of ₹1,000/- each under Section 147 IPC and in default of payment of fine, they were to undergo further imprisonment for two months each vide order of conviction dated 09.10.2014 and order of sentence dated 10.10.2014. Appeal filed by the petitioners was dismissed by the learned Sessions Judge, Kurukshetra on 09.10.2017.

Learned counsel for the petitioners had prayed for release of all

the petitioners on probation. The request has been opposed by learned counsel for the complainant, who has referred to the criminal record of the petitioners. The petitioners themselves filed the details of the FIRs registered against them showing that against accused Narinder Singh and Karan Singh, there is no other case. Accused Gulab Singh was booked in a case under Sections 323 and 325 IPC but was acquitted. Barkha Ram was booked under Section 307 IPC and was convicted by the lower Court but acquitted by the High Court. Against Dharambir, one FIR under Sections 147, 188 and 341 IPC is lying registered in which State has moved for withdrawal of the prosecution. However, Om Parkash and Jai Bhagwan were convicted by the Sessions Court under Section 307 IPC. However, their sentence was reduced to the period already undergone by this Court. In this way, it is clear that Om Parkash and Jai Bhagwan are previous convicts whereas the other accused were either not facing any trial or acquitted but not convicted in any other case. Custody certificates of Om Parkash and Jai Bhagwan shows that both have already undergone actual sentence of 1 month and 13 days only. Same is the position regarding the co-accused.

Considering the previous record of revisionists, while maintaining the conviction of the petitioners, namely, Gulab Singh, Dharambir Singh, Narinder Singh, Barkha Ram, and Karan Singh under Section 323 IPC read with Sections 149 and 147 IPC, the sentence passed against them is set aside and they are ordered to be released on probation under Section 5(1) of the Probation of Offenders Act, 1958 on their executing probation bonds in the sum of ₹50,000/- each with one surety

each of the like amount, for a period of one year, to the satisfaction of the Chief Judicial Magistrate, Kurukshetra, with an undertaking not to repeat such conduct in future and in case, they do so, the sentence passed upon them shall revive and they will surrender before the Court to undergo the remaining part of sentence. The said probation bond be furnished within three weeks from the date of their release from the jail. They be released forthwith, if not required in any other case. It is further directed that as per Section 12 of the Probation of Offenders Act, 1958, said conviction shall not be treated as disqualification for any purpose.

Qua accused Om Parkash and Jai Bhagwan, keeping in view their previous record and role attributed to them, the sentence of RI for one year awarded under Section 323 read with Section 149 IPC is reduced to RI for six months. Sentence awarded under Section 147 IPC is maintained.

With the above noted modification, the revision is partly allowed.

November 22, 2017
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(KULDIP SINGH)
JUDGE

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| 1. | Whether Speaking/ Non Speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |