

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

CRR-2432-2009

Date of Decision:22.11.2018

MALKIAT SINGH

...PETITIONER

VERSUS

KALU SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kamaldeep S. Sidhu, Advocate
for the petitioner.

Mr. Satinder Khanna, Advocate
for respondents No. 1, 2, 4 and 5.

Mr. Jaideep Verma, Advocate
for respondent No.3.

MANOJ BAJAJ, J.(ORAL)

On 31.10.2018, following order was passed:-

“Malkiat Singh-complainant has preferred this criminal revision portraying his grievance against the quantum of sentence, as the Additional Sessions Judge, Ludhiana vide its judgment dated 04.02.2009, while deciding the appeal against conviction, extended the benefit of probation under Section 4 of the Probation of Offenders Act, 1958 (in short 'the Act') to the convicts i.e. private respondents. The trial Court had awarded the sentence of two years rigorous imprisonment along with fine of ₹500/- and in default of payment

of fine to further undergo rigorous imprisonment for one month. The conviction recorded by trial Court in a complaint case was for the offences punishable under Sections 323 and 325 of Indian Penal Code and stood maintained by Appellate Court. The respondents were, however, acquitted by the trial Court for the offences punishable under Sections 295 and 298 of Indian Penal Code.

It is submitted by learned counsel for the respondents that this objection was never raised before the Appellate Court when the concession of probation was extended to the convicts. Besides, the occurrence relates back to year 1990 and after a gap of 28 years as on today there is no justification to alter the sentence part as the probation period is already over.

Attention is also invited to Section 11 of the Act, which provides for remedy of appeal against such a concession and the revision petition, therefore, is not maintainable.

The matter was lastly taken by this Court on 08.04.2016 when the parties were sent to Mediation and Conciliation Centre of this Court as they were closely related. The mediation attempt did not materialise and the case was sent back to this Court on 27.04.2016.

As this matter is being listed today after a period of more than two years, the same is adjourned to 02.11.2018, in the interest of justice.

Learned counsel for the petitioner be intimated.”

Thereafter the matter was heard on 14.11.2018 as well as on 21.11.2018.

Learned counsel for the petitioner contends that the petitioner would not press the present petition in case a sum of ₹20,000/- is paid as a compensation by respondents No.1, 2, 4 and 5.

Learned counsel for respondents No.1, 2, 4 and 5 has agreed to the said offer and a sum of ₹20,000/- in cash is handed over to the learned counsel for the petitioner, who accepted the same on behalf of the petitioner Malkiat Singh.

In view of the aforesaid, learned counsel for the petitioner does not press the present petition and wishes to withdraw the same.

Dismissed as withdrawn.

22.11.2018
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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No