

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

CRR No.380 of 2012 (O&M).

Decided on:- November 17, 2018.

Raj Kumar alias Raja.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. R.K. Dhiman, Advocate
for the petitioner.

Mr. Surinder Pal Singh Tinna, Addl. A.G., Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 20.01.2012 passed by learned Additional Sessions Judge, Jalandhar whereby his appeal against the judgment of conviction and order of sentence dated 25.02.2010 passed by learned Judicial Magistrate 1st Class, Jalandhar, was dismissed.

Briefly stated, FIR No.179 dated 08.07.2007 under Sections 323 and 324 IPC was registered against the petitioner at Police Station Division No.8, Jalandhar on the allegations that on 07.07.2007 at about 11.00 P.M., complainant Paramjit was present in a fair organised at Peer Baba Chirag Shah. A large congregation was present there to see the cultural programme. The complainant was also sitting on a chair in the Pandal. Petitioner Raj Kumar, who is neighbour of complainant Paramjit was also present there. On seeing the complainant, the petitioner asked him to vacate the chair. When the

complainant objected to his rowdy behaviour and asked the petitioner to sit on some other chair, the petitioner became furious and started abusing the complainant. He also picked up a chair lying next to him and threw the same towards the complainant. The complainant sustained injury on the back side of his head because of the chair blow given by the petitioner. When the complainant raised a hue and cry, his sister-in-law Sunita and sister Nirmal, who had also come to the fair, reached the spot and took him to the hospital. The complainant further alleged that the petitioner had caused hurt to him as he (petitioner) carried some grudge against him.

Investigation was conducted by the police. Rough site plan was prepared. The petitioner was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the petitioner. Finding a *prima facie* case against the petitioner, he was charge-sheeted under Sections 323 and 324 IPC, to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment of conviction and order of sentence dated 25.02.2010 convicted the petitioner under Section 324 IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- and in default thereof, to further undergo simple imprisonment for five days.

Feeling aggrieved of his conviction and sentence by learned Magistrate, the petitioner preferred an appeal before the Court of Session.

However, vide judgment dated 20.01.2012 passed by learned Additional Sessions Judge, Jalandhar, appeal of the petitioner was dismissed.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner and has confined his prayer to the extent that the case of petitioner be considered on quantum of sentence and he be released on probation of good conduct.

He has further contended that the petitioner is a young man of 33 years of age and there is no other male member in his house to look after his wife and minor children. He is a first time offender and has been facing the agony of criminal proceedings for the last more than eleven years. As against the awarded sentence of two years, the petitioner has already undergone actual imprisonment for a period of 1 month and 22 days including remission.

Learned counsel for the petitioner has referred to the judgment of this Court in ***S.P. Malhotra Versus U.T. Chandigarh 2007(3) RCR (Criminal) 735*** wherein the trial Court had convicted the accused under Section 420 IPC and sentenced them to undergo rigorous imprisonment for a period of three years. However, this Court released the accused on probation of good conduct.

On the other hand, learned State counsel, though has not disputed the custody of the petitioner, but has argued that learned trial Court as well as learned appellate Court have already taken a lenient view regarding the sentence of petitioner. Thus, no interference is warranted in the quantum of

sentence. Custody certificate filed by learned State counsel in Court today, is taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that there is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioner which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and, rather, has prayed for release of the petitioner on probation. The conviction of the petitioner is, therefore, affirmed.

So far as prayer of learned counsel for the petitioner for releasing the petitioner on probation of good conduct is concerned, this Court finds that the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from the judgment of Hon'ble Supreme Court in the case of ***Karamjit Singh Versus State (Delhi Admn.), 2001(9) SCC 161***, wherein the following observations were made:

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the

desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Thus, keeping in view the ratio of law laid down in ***S.P. Malhotra’s case (supra)*** and in ***Karamjit Singh’s case (supra)***, as well as the fact that the petitioner has not crossed the age whereafter he cannot be reformed, particularly when he is a first time offender and facing the agony of trial for the last more than eleven years, this Court finds that the present is a fit case so as to grant the benefit of probation to the petitioner.

Vide order dated March 07, 2012, the sentence of imprisonment awarded to the petitioner has already been suspended by this Court during pendency of the present criminal revision and now, he is on bail in this case. During the period of his on bail, nothing adverse has been reported against the petitioner. Thus, he is directed to furnish probation bonds in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of Chief

Judicial Magistrate, Jalandhar within a period of two months from today with an undertaking that during the period of one year, he shall not commit any offence and shall maintain peace and be of good behaviour, as provided under Section 4 of the Probation of Offenders Act, 1958. In case the petitioner violates the terms of the undertaking, he shall appear before the Chief Judicial Magistrate, Jalandhar to receive his remaining sentence.

With the aforesaid modification in the order of sentence, the present revision petition stands disposed of.

CRM No.32525 of 2018

Since the main case has been decided by this Court, the present application for granting permission to the petitioner to go abroad is rendered infructuous and is, accordingly, disposed of.

November 17, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No