

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

Criminal Revision No.1422 of 2013 (O&M)
Decided on:-August 14, 2018.

Satpal.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

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

Present:- Mr. Vinay Kumar Gupta, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana
for respondent No.1-State.

Mr. D.P.S. Bajwa, Advocate
for respondents No.2 and 3.

HARI PAL VERMA, J. (Oral)

The petitioner-complainant has filed present revision petition against judgment dated 25.01.2013 passed by learned Additional Sessions Judge, Jind whereby the appeal filed by respondents No.2 and 3-accused against the judgment of conviction dated 15.05.2012 and order of sentence dated 18.05.2012 passed by learned Judicial Magistrate 1st Class, Narwana was disposed of with modification in the order of sentence.

Briefly stated, the FIR No.94 dated 08.06.2009 under Sections 323, 324 and 325 read with Section 34 IPC was registered against the

respondents No.2 and 3-accused, namely, Satnam Singh and Tona Singh @ Balwinder Singh at Police Station Garhi, District Jind with the allegations that on 07.06.2009 at about 07.00 P.M., they, in furtherance of their common intention, while armed with Lathi and Gandasi caused simple as well as grievous injuries to complainant Satpal (petitioner herein).

After registration of the case, police investigated the matter and submitted Challan in the Court as provided under Section 173 Cr.P.C. The copies of Challan were supplied to the accused free of costs as envisaged under Section 207 Cr.P.C. Finding a prima-facie case under Sections 323, 324 and 325 read with Section 34 IPC against the accused, they were charge-sheeted accordingly to which they did not plead guilty and claimed trial.

The trial Court vide judgment dated 15.05.2012 held the respondents No.2 and 3-accused guilty for commission of offence under Sections 323, 324 and 325 read with Section 34 IPC. Vide separate order dated 18.05.2012 passed by learned trial Court, respondent No.2 and 3-accused were sentenced to undergo imprisonment as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 323 read with Section 34 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.200/- each.
Under Section 324 read with Section 34 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.300/- each.
Under Section 325 read with Section 34 IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each.

It was ordered that in default of payment of fine, the convicts shall further undergo imprisonment for a period of three months. However, all the sentences shall run concurrently.

Against the judgment of conviction dated 15.05.2012 and order of sentence dated 18.05.2012 passed by learned Magistrate, the respondents No.2 and 3 filed an appeal before the Court of Session. During the course of arguments before learned appellate Court, respondents No.2 and 3 did not challenge their conviction and prayed for their release on probation on the ground that they are poor persons and are not previous convicts.

Vide judgment dated 25.01.2013 passed by learned Additional Sessions Judge, Jind, the conviction of the respondents No.2 and 3 was upheld and the appeal was disposed of with a modification in the order of sentence to the effect that they be released on probation under Section 4 of the Probation of Offenders Act, 1958 for a period of six months on their executing a bond within a week to the satisfaction of learned trial Court binding themselves to appear and receive sentence as and when called upon, to do so, during the said period and in the meantime, to keep peace and be of good behaviour. It was also ordered that the convicts will pay Rs.5,000/- each (total sum of Rs.10,000/-) as compensation to the injured before the trial Court within the abovesaid period.

It is in these circumstances, the petitioner-complainant being dissatisfied has filed the present revision petition impugning the judgment dated 25.01.2013 passed by the appellate Court qua the sentence part.

Learned counsel for the petitioner-complainant has argued that the trial Court had rightly convicted and sentenced the respondents No.2 and 3-accused. However, learned appellate Court has wrongly released the respondents-accused on probation. While releasing the respondents No.2 and 3 on probation, learned appellate Court has ignored the nature of injuries suffered by the petitioner-complainant.

He has further argued that the approach of learned appellate Court while releasing the respondents-accused on probation is illegal and perverse in view of the charges levelled against the respondents-accused. However, the appellate Court has failed to appreciate the facts and circumstances of the case as well as the evidence led by the prosecution while releasing the respondents-accused on probation.

On the other hand, learned counsel for respondents No.2 and 3 has argued that conviction of the respondents No.2 and 3 has been maintained by the appellate Court and taking into consideration the totality of the circumstances as well as in the larger interest of justice, the appellate Court has released the respondents-accused on probation. The respondents No.2 and 3 have successfully completed the period of probation as well.

I have heard learned counsel for the parties.

Vide order dated July 28, 2014, this Court issued notice of motion with regard to grant of compensation under Section 357 Cr.P.C. only.

While releasing the respondents-accused on probation, what might have weighed on the mind of learned appellate Court is that the parties have been residing in the same village and the respondents-accused are not

previous convicts. Therefore, learned appellate Court, in its wisdom, has modified the sentence awarded by learned trial Court and released the respondents-accused on probation of good conduct by giving them benefit of Section 360 Cr.P.C. During this time, the accused have completed the period of probation also.

It would be pertinent to mention here that scope of revisional jurisdiction is vested with limited powers. The record reveals that the prosecution has not proved that the respondents-accused are habitual offenders either before the trial Court or before the appellate Court. As such, the appellate Court has rightly accepted the prayer of respondents-accused for releasing them on probation of good conduct.

Moreover, quantum of sentence is always fixed by the Court and is a prerogative of the Court unless a minimum sentence is prescribed for an offence. Therefore, this Court does not find any illegality, irregularity or perversity in the impugned judgment passed by learned appellate Court which may warrant interference of this Court by invoking its revisional jurisdiction.

For the injuries suffered by the petitioner-complainant, learned appellate Court, vide impugned judgment dated 25.01.2013, has awarded compensation of Rs.10,000/- (Rs.5,000/- each by both the respondents) to the petitioner. However, this Court is of the considered opinion that the said compensation awarded to the petitioner is inadequate viz. a viz. the injuries suffered by him. Moreover, at the time of motion hearing, this Court has issued notice only qua compensation. Therefore, respondents No.2 and 3-accused are directed to pay compensation to the petitioner-complainant to the

tune of Rs.15,000/- each i.e. a total sum of Rs.30,000/-, instead of Rs.10,000/- awarded by the appellate Court, within one month from today.

With aforesaid modification in the impugned judgment dated 25.01.2013 passed by learned Additional Sessions Judge, Jind, the present revision petition, is dismissed.

August 14, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No