

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3446-2013(O&M)

Date of decision: 21.05.2018

Swaran Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Uday Jain, Advocate for
Mr.R.S.Sekhon, Advocate, for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. Parvez Chugh, Advocate for respondent No.2.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition, filed by Swaran Singh-complainant, is for setting aside the judgment dated 18.04.2012 passed by the Lower Appellate Court, vide which, while upholding the conviction of respondents No.2 to 5/accused under Sections 323, 324, 325, 148 and 149 of IPC, their sentence was modified and they were released on probation of good conduct under Section 4(1) of the Probation of Offenders Act, 1958, on furnishing bonds in the sum of ₹20,000/- each with one surety in the like amount with an undertaking to keep and maintain peace for a period of one year. It was further directed that respondents No.2 to 5 / accused will deposit a sum of ₹ 8,000/- each as amount of compensation to be paid to the complainant in this case.

Brief facts of the case are that on the complaint made by petitioner-Swaran Singh, FIR No. 57 dated 07.06.1998 was registered under Sections 323, 324, 325, 148, 149 of IPC, at Police Station Ghall

Khurd. It is stated in the FIR that the petitioner is an agriculturist and being the only legal heir/son of his parents, he was looking after his property and on 05.06.1998 at about 8.00 p.m., he had gone to his fields, when he reached his tubewell motor, his paternal uncle Ajaib Singh, Rachhpal Singh, Kuldeep Singh and Major Singh along with two other relatives were present on his tubewell motor and on his asking, they said that they would teach him a lesson for not giving them the motor. Thereafter, accused persons caused injury to the petitioner and when he raised a voice, his uncle Malook Singh and Jagtar Singh came at the spot and rescued him. Thereafter, the accused persons ran away from the spot.

On completing the investigation, report under Section 173 Cr.P.C. was submitted and charges were framed against the accused persons under Sections 323, 324, 325, 148, 149 of IPC. Thereafter, on the basis of evidence of the prosecution and the defence evidence led by the respondents No.2 to 5 / accused, the trial Court vide its judgment dated 22.04.2008, convicted the respondents No.2 to 5 / accused and vide order of sentence dated 22.04.2008, sentenced them to undergo rigorous imprisonment for a period of 02 years along with fine of ₹2,000/- each.

The respondents No.2 to 5 / accused filed an appeal before the Lower Appellate Court and vide impugned judgment dated 18.04.2012, the Lower Appellate Court while upholding the conviction, modified the order of sentence and released respondents No.2 to 5 on probation.

The petitioner/complainant has filed the present petition praying for setting aside the judgment passed by the Lower Appellate Court and for restoring the judgment passed by the trial Court so far the order of sentence directing them to undergo rigorous imprisonment for a period of

02 years and to pay a fine of ₹2,000/- each was passed.

Counsel for the petitioner has submitted that it is proved on record that the respondents/accused persons, in conspiracy with each other, have caused injuries to the petitioner and the same is duly corroborated by the medical evidence as upholding by both the Courts below and therefore, the Lower Appellate Court has wrongly released them on probation.

In reply, counsel for respondents No.2 to 5 / accused has submitted that since respondents No.2 to 5 / accused were first offenders and the only bread earners of their families, the Lower Appellate Court has rightly taken a lenient view for releasing them on probation of good conduct and prays for dismissal of the petition.

After hearing counsel for the parties, I find no merit in the present petition. The respondents No.2 to 5 / accused have faced the trial from 05.06.1998 i.e. date of occurrence and one of the accused, namely, Baj Singh, was aged about 62 years and the other accused persons were young men at the time of commission of offence. It is not the case of the petitioner/complainant that after the incident which occurred on 1998 till 2018, in the intervening period of 20 years, the respondents No.2 to 5 / accused have either misused the concession of bail / suspension of sentence awarded to them or have ever threatened the petitioner/complainant in any manner.

Counsel for the petitioner also could not rebut the arguments of the counsel for the respondents that the parties were closely related and the respondents No.2 to 5 /accused have shown improvement in their behaviour/character and no untoward incident has been repeated in the last 20 years.

In the statement made before the trial Court, all the accused persons had prayed for showing a leniency and requested for probation on the ground that they were poor persons and have on their own families to support. However, said prayer was not considered by the trial Court.

The Lower Appellate Court has recorded a well-reasoned finding that respondents No.2 to 5 / accused are entitled to be released on probation considering their age and financial status and also in view of the fact that they are the only bread earners of their respective families. The Lower Appellate Court has also noticed that being first offenders, the respondents No.2 to 5 /accused should be given an opportunity to reform themselves and to join the mainstream of the society rather than sending them to judicial lock-up with hardcore criminals.

Since, the period of probation as directed by the Lower Appellate Court vide judgment dated 18.04.2012 is already over and even subsequent thereto, there is no complaint against respondents No.2 to 5 / accused from the side of the petitioner and they have been directed to pay the compensation in a sum of ₹8,000/- each to the complainant, I find no reason to set aside the judgment dated 18.04.2012 passed by the Lower Appellate Court, granting probation to the respondents-accused.

In view of the above, the present petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

21.05.2018
Hemlata

Whether speaking/reasoned	Yes
Whether reportable	Yes