

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

**CRR No.1326 of 2015 (O&M)
DATE OF DECISION:-30.11.2018**

BIDHI CHAND

...PETITIONER...

V.

STATE OF PUNJAB AND ORS.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Kunal Mulwani, Advocate,
for the petitioner.

Mr. A.S. Gill, DAG, Punjab.

Mr. Vinod K. Kaushal, Advocate,
for respondents No.5 and 6.

RAMENDRA JAIN, J. (ORAL)

Complainant has come up before this Court by way of instant revision petition for modification of judgment dated 19.08.2014 (P-1) of first appellate court, whereby, respondents No.2 and 3 were granted benefit of probation under Section 4(1) of the Probation of Offenders Act, 1958, on their furnishing probation bond in the sum of Rs.50,000/- each with one surety in the like amount each, to the satisfaction of trial court/Duty Magistrate with a condition to appear and receive sentence as and when called upon during the period of next one year and in the meantime, to keep peace and be of good behavior, while awarding compensation to complainant to the tune of Rs.10,000/- each (total Rs.30,000/-) payable by respondents No.2 to 4.

In nutshell, respondents No.2 to 6 (private respondents) were tried on the complaint of revisionist on the allegations that in the morning of 02.10.2017, (private respondents) armed with deadly weapons like gandasi, swords, sticks etc. caused injuries on various parts of his body. The motive behind the occurrence was of moving some complaints by revisionist against them. After holding trial, the private respondents were acquitted by the trial court vide judgment dated 12.03.2013.

Being aggrieved, revisionist approached the first appellate court, who negating the findings of trial court qua acquittal of the private respondents, held them guilty under Sections 323, 324 and 452 read with Section 34 IPC, but released them on probation in the manner as narrated above in the opening part of this judgment.

Learned counsel for the petitioner contends that the first appellate court has failed to appreciate that private respondents had caused serious injuries to the petitioner and, therefore, were not liable to be released on probation. The impugned judgment of first appellate court may be set aside and private respondents be sent behind bars by awarding them adequate punishment.

On the other hand, learned counsel for the private respondents submits that injuries allegedly caused by private respondents to petitioner were on non-vital part i.e. right leg and right ankle attributed to Narang Singh-respondent No.2, who has already expired. The private respondents are innocent and they have wrongly been held

guilty by the first appellate court, ignoring the well reasoned judgment of the trial court. Since, private respondents were released on probation, therefore, they did not prefer any appeal.

Having given anxious consideration to the rival submissions, this Court finds the instant petition completely devoid of any merit for the reasons to follow:-

(1) Out of 4 injuries allegedly caused by private respondents to the petitioner, two were red abrasions on the front leg and on back of left forearm, one was incised wound in front of right leg and the fourth one as lacerated wound on front of right leg. Therefore, it is evident that all the injuries suffered by the petitioner at the hands of private respondents were not on his vital part.

(2) The petitioner has already been adequately compensated by first appellate court by awarding Rs.30,000/- as compensation for the alleged injuries caused to him by the private respondents.

(3) The private respondents were released on probation in August, 2014, since then, more than 4 years have elapsed. Learned counsel for the petitioner has not been able to bring on record any overt act or misuse of terms and conditions of their probation bond by the private respondents. Therefore, now, it is too late and would be inappropriate to send the private respondents behind bars.

(4) The first appellate court, in its wisdom, was empowered and had a legal right to release the private respondents on

probation. Therefore, it has not exceeded its jurisdiction or has not acted beyond its jurisdiction.

This Court, while exercising the revisional powers, cannot illegally interfere into the findings of the first appellate court, releasing the private respondents on probation.

The private respondents have already made to suffer protracted trial for 11 years for their alleged misconduct, inasmuch as, impugned FIR was registered against them in the year 2007. Therefore, no scope is left to send them behind the bars.

Dismissed.

30.11.2018
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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No