

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

**CRR No.3538 of 2016
Decided on: 20.02.2018**

Raj Kumar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. B.S. Sidhu, Advocate (Legal Aid Counsel)
for the petitioner.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for setting-aside the judgment dated 12.08.2016 passed by the Sessions Judge, Rewari whereby the appeal filed by the accused/respondent No.2 was dismissed qua the conviction of respondent No.2, however, the same was partly allowed by reducing the sentence awarded to him to probation of good conduct under Section 4 of the Probation of Offenders Act on furnishing personal bonds in the sum of Rs.20,000/- with one surety in the like amount for a period of 02 years.

Brief facts of the case are that on 04.06.2013, the petitioner/complainant Raj Kumar moved an application before the police with the allegation that on 03.06.2013 at about 11:45 PM, he along with his family was sleeping in his house and the accused came there and started misbehaving with his wife. When his wife raised alarm, he went inside and caught hold of the accused and informed the police, which reached at the spot and the accused was handed over to the police.

On completion of the investigation, the report under

Section 173 Cr.P.C. was submitted. The accused – Jai Bhagwan was charged for commission of offence punishable under Sections 451 and 509 IPC.

The prosecution examined PW1 – Rajinder Singh, Numbardar, the prosecutrix as PW2, the petitioner – Raj Kumar/complainant as PW3 and they corroborated the version given in the FIR. PW4 – ASI Balraj who conducted the investigation proved the details of the investigation and also proved the relevant documents on record.

The trial Court vide its judgment of conviction dated 02.03.2015 convicted the respondent No.2 – Jai Bhagwan under Sections 451 and 509 IPC and vide order of sentence dated 05.03.2015 sentenced him to undergo rigorous imprisonment for a period of 01 year for commission of offence punishable under Sections 451 and 509 IPC along with fine of Rs.1,000/- each.

Respondent No.2 preferred an appeal before the Lower Appellate Court and the Lower Appellate Court vide impugned judgment dated 12.08.2016 upheld the conviction, however, set-aside the sentence awarded by the trial Court and released the respondent No.2 on probation of good conduct under the provisions of Section 4 of the Probation of Offenders Act, on furnishing his personal bonds in the sum of Rs.20,000/- with one surety in the like amount, to keep peace and good behaviour for a period of 02 years with a further undertaking that he shall maintain peace and good behaviour and the fine imposed by the trial Court was treated as costs of proceedings.

The present appeal has been filed by the petitioner

challenging the judgment passed by the Lower Appellate Court, releasing the respondent No.2 on probation.

Counsel for the petitioner has submitted that the releasing of respondent No.2 on probation without considering the fact that the offence under Section 509 IPC is a serious offence which provides punishment for insulting the modesty of a woman. It is further submitted that the releasing of respondent No.2 on probation is not the appropriate sentence awarded to him and, thus, prayed that the order of sentence passed by the trial Court be upheld.

After hearing the counsel for the petitioner, I find no merit in the present revision petition. Though, the conviction of respondent No.2 has been upheld by both the Courts below, yet, considering the fact that the convict is the only bread earner of the family, having two minor children and old aged parents and also in view of the fact that the accused has no previous history of criminal background and he has faced the agony of protracted trial since 2013, the Lower Appellate Court has rightly exercised its discretion in releasing the respondent No.2 on probation. Counsel for the petitioner could not point out that after releasing the respondent No.2 on probation by the Lower Appellate Court, he has misused the concession of probation in any manner or has failed to maintain peace and harmony in the society.

For the foregoing reasons, finding no merit, the revision petition fails and is accordingly dismissed.

20.02.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No