

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRR-4887-2017(O&M)

Date of Decision: February 22, 2018

Anand and another

.....Petitioner(s)

versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Chanderhas Yadav, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. Sandeep Kumar Yadav, Advocate
for respondent No.2.

Sudhir Mittal, J. (Oral)

The petitioners-Anand and his wife-Saroj Devi have filed the present revision petition challenging the judgment dated 18.12.2017, passed by the Sessions Judge, Narnaul, whereby their appeal has been dismissed as also the judgment and order dated 15.06.2016 passed by JMIC, Mahendergarh vide which they have been convicted under Sections 323 read with 34 IPC and sentenced to SI for one year and fine of Rs.1000/- each and in default of payment of fine, to further undergo SI for 10 days.

2. The petitioners are accused of having assaulted the complainant and his wife. As a result, the complaint was filed resulting in their conviction

under Sections 323 and 506 read with section 34 IPC and sentence of simple imprisonment for a period of one year with fine of Rs.1000/- each and in default of payment of fine to further undergo Simple Imprisonment for ten days, was awarded. The appeal of the petitioners has already been dismissed.

3. Learned counsel for the petitioners submits that petitioner No.2 Saroj Devi is the first offender and she being house wife has to look after three small children. Since both husband and wife have been incarcerated, the children are at the mercy of their grand father, who is old aged, inflicted with various diseases. He thus prayed that the petitioner No.2 may be sentenced for the period already undergone or may be released on probation as she has undergone actual custody of two months and six days and inclusive of remission, custody of two months and twenty one days.

4. Learned State counsel has filed custody certificate dated 21.02.2018, issued by Ashok Kamboj, Deputy Superintendent, District Prison, Narnaul, Haryana, in Court and the same is taken on record. The position regarding actual custody period is affirmed from the said custody certificate.

5. Section 360 of the Code of Criminal Procedure Code, 1973, provides for order to release on probation of good conduct. A specific provision in this section has been made in favour of female where she has been convicted for an offence not punishable with death or imprisonment for life, and no previous conviction is proved against her and if it appears regard being had to her age, character, antecedents and to the circumstances of the case that it would be expedient to release her on probation of good conduct. In the instant case, conviction is on account of fight between neighbours in the village which is a normal affair within rural areas. Further, the conviction is for minor offence

and petitioner No.2 would not be a threat to public safety or order. Therefore, keeping in view the fact that three minor children need to be looked after by her, in my opinion, petitioner No.2-Saroj Devi should be entitled to benefit of Section 360 Cr.P.C.

6. So far as petitioner No.1-Anand is concerned, no illegality, irregularity or impropriety in the exercise of jurisdiction by the Courts below, has been pointed out by the learned counsel for the petitioners. The evidence on record has been properly appreciated by Courts below and no perversity has been pointed out in the evaluation thereof.

7. Thus, except the modification in the impugned order of sentence qua petitioner No.2-Saroj Devi, instant revision petition is hereby dismissed.

8. Petitioner No.2-Saroj Devi is ordered to be released on probation on her entering into probation bond with one surety for a period of six months to the satisfaction of the Chief Judicial Magistrate/Duty Judicial Magistrate, Narnaul, to appear and receive sentence when called upon during this period and to keep peace and be of good behaviour.

February 22, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No