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

CRR-197-2019 [O&M]

Date of Decision : March 19, 2019

Sahab Singh alias Laddi

....Petitioner.

Versus

Gurwant Singh and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by: Mr. Amit Khatkar, Advocate
for the petitioner.

SHEKHER DHAWAN, J.

Present revision petition under Section 401 of the Criminal Procedure Code is directed against the judgment dated 10.01.2019 passed by learned Sessions Judge, Kaithal, whereby the criminal appeal preferred by the respondent-complainant against the judgment of acquittal dated 18.07.2016 passed by learned Judicial Magistrate Ist Class, Kaithal, was accepted qua present petitioner and he was held guilty for commission of offence punishable under Section 324 of the Indian Penal Code (for short, 'IPC') and was sentenced to undergo rigorous imprisonment for a period of one (1) year, in case bearing F.I.R. No.89 dated 11.08.2012 under Sections 323 and 324 read with Section 34 IPC registered at Police Station Sadar, Kaithal.

2. Facts relevant for the purpose of decision of the present

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revision petition; the aforesaid F.I.R. was registered on the complaint made by Gurwant Singh, that due to civil litigation between the parties, the present petitioner alongwith other accused persons enraged and abused and inflicted injuries to the complainant. The allegations against the present petitioner, Sahib Singh alias Laddi, were that he was having *gandasi* and caused simple injuries on the head of the complainant.

3. After completion of investigation proceedings, challan was presented before the trial Court.

4. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (including petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, learned trial Court acquitted all the accused (including the petitioner) vide judgment dated 18.07.2016.

5. The appeal preferred by the complainant against the said judgment of acquittal was accepted qua the present petitioner by learned first appellate Court vide judgment dated 10.01.2019 holding the present petitioner guilty for commission of offence under Section 324 IPC and the present petitioner was convicted in the manner narrated above.

6. At the time of commencement of arguments, learned counsel for the petitioner contended that he does not challenge the judgment of conviction recorded by learned first appellate Court. At the same time, learned counsel submitted that as the petitioner is not a previous convict and conviction has been recorded under Section 324 IPC, taking a lenient view on the point of sentence, the order of sentence be modified and the

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petitioner be given the benefit of probation under Probation of Offenders Act, 1958 and he be released on probation.

7. Having considered the submissions made by learned counsel for the petitioner and appraisal of case file, this Court is of the considered view that learned first appellate Court has already appreciated the evidence in its perspective manner. The ocular testimony of PW-3, Gurwant Singh is corroborated by statements of eye-witnesses namely, PW-4, Mangaljeet and PW-6, Jaswinder. Dr. Sandeep Saini, PW-5 has proved Medico Legal Report Ex. PW-5/B of injured Gurwant Singh and sent proved his opinion Ex. PW-5/D.

8. In view of the above discussion and especially in the light of the fact that the petitioner does not challenge the judgment of conviction and otherwise there being sufficient material available on the file which has already been screened by both the first appellate Court, there is no ground to set-aside the judgment of conviction recorded against the present petitioner and the revision petition against the judgment of conviction stands dismissed being devoid of any merit.

9. In the present case, certainly there are grounds to modify the order of sentence and if he is ordered to be released on probation to lead peaceful life, that shall give him an opportunity to settle in life. Such a view was taken by Hon`ble Supreme Court in **Hari Kishan and States of Haryana Vs. Sukhbir Singh**, 1988(2) R.C.R. (Criminal)394 and by this Court in **State of Punjab Vs. Kuldip Singh and others**, 2007(2) R.C.R. (Criminal) 670 and **Ram Kumar Vs. State of Haryana**, 2000 (1) R.C.R. (Criminal) 771, wherein it has been held that the accused persons

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involved in such like cases, who are not previous convicts and not habitual offenders, can be extended the benefit of probation under the Act. Accordingly, the order of sentence passed by learned first Appellate Court is modified and the present petitioner is ordered to be released on probation on furnishing probation bonds in the sum of Rs. 20,000/- with one surety in the like amount for a period of one year. Sahab Singh alias Laddi, present petitioner be released from custody in this case, if not required in any other case.

10. Resultantly, the present revision petition stands partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

March 19, 2019
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes