

CRM-A-969-MA of 2018

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

CRM-A-969-MA of 2018
Date of Decision: 05.03.2019

Shamsher Singh

....Applicant

Versus

Rajesh @ Raju and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. H.S. Deol, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through instant application under Sections 378(3) applicant-complainant has sought permission to file appeal against judgment dated 19.03.2018 of the Appellate Court, who acquitting respondents No.1 and 3 of the charge under Section 325 IPC maintained their conviction under Sections 323 and 506 IPC and released them on probation, granting compensation of ₹75,000 to the applicant, on presentation of probation bonds in the sum of ₹1,00,000/- with one surety of the like amount each for a period of three years, whereas respondent No.2 has been acquitted of all the charges under Sections 325, 323, 506 read with Section 34 IPC.

Briefly, in the morning of 04.05.2014, applicant Shamsher Singh was returning home from his fields. When he reached near the welding shop of Sita Ram, respondents No.1 to 3 abused and gave him beatings with their respective *lathis* and *dandas* on almost on his entire body i.e.

head, back, neck, legs and hands etc. When he telephonically called his

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father and brother, private respondents also assaulted and criminally intimidated them with dire consequences.

On these broad allegations, initially DDR No.21 dated 04.05.2014 was recorded. After receipt of x-ray report, said DDR was converted into FIR No.67 dated 12.05.2014 dated 323, 325, 506, 34 IPC.

After holding trial, respondents No.1 to 3 were convicted and sentenced by trial Court vide judgment of conviction dated 20.02.2016 and order of sentence dated 23.02.2016 as under: -

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>Sentence in default of payment of fine</i>
323/34 IPC	R.I. for six months	₹500/-	S.I. for 10 days
325/34 IPC	R.I. for one year	₹1000/-	S.I. for 20 days
506/34 IPC	R.I. for six months	₹500/-	S.I. for 10 days

Being aggrieved, respondents No.1 to 3 approached the First Appellate Court, who vide impugned judgment dated 19.03.2018, modified the judgment of conviction and order of sentence of the trial Court in the manner as narrated above in the opening part of the judgment.

Learned counsel for the applicant *inter alia* contends that the First Appellate Court has wrongly acquitted respondent No.2 – Santra under Section 325 IPC, ignoring the medical record proving fracture to the ulna bone of the applicant at his hand. Compensation of ₹75,000/- awarded to the applicant by the Appellate Court is also on the lower side, in case, injury suffered by the applicant is taken into account, while releasing respondents No.1 to 3 on probation.

Having given considerable thought to the submissions made by learned counsel for the applicant, this Court finds the instant application completely devoid of any merit for the reasons to follow.

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for around five years.

Applicant had received a fracture of ulna bone for which he has already been awarded compensation of ₹75,000/- by the First Appellate Court.

Around one year is going to elapse after grant of probation to respondents No.1 and 3 vide judgment dated 19.03.2018. Nothing has been brought on record by learned counsel for the applicant that during this period they ever violated the terms and conditions of their probation bonds.

There was no embargo for the Appellate Court to grant probation to an accused in case it felt so. Private respondents are the first offenders. They were not found involved in any other criminal activity.

As far as respondent No.2 Santra is concerned, she has rightly been acquitted of all the charges as prosecution miserably failed to prove her role in the alleged incident.

Considering all the above factors, this Court is not inclined to differ with the findings of the Appellate Court acquitting respondent No.2 of all the charges and releasing respondents No.1 and 3 on probation.

Hence, leave to appeal is declined.

March 05, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No