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

CRR-1584 of 2016

DATE OF DECISION: January 11, 2019.

Avtar Kaur

... Petitioner.

Versus

Jasmer Singh and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by: Mr. Sanjay Jain, Advocate
for the petitioner.

Mr. Sunil K. Tandon, Advocate,
for respondents No. 1 to 3.

Mr. Ashish Sanghi, DAG, Haryana.

SHEKHER DHAWAN, J.

1. Present revision petition by complainant – Avtar Kaur is directed against judgment dated 04.02.2016 passed by learned Additional Sessions Judge, Ambala whereby judgment of conviction dated 10.06.2015 of learned Additional Chief Judicial Magistrate, Ambala was maintained yet the order of sentence dated 11.06.2015 was modified and the accused persons were ordered to be released on probation on furnishing probation bonds in the sum of Rs. 30,000/- with one surety in the like amount each for a period of one year under the Probation of Offenders Act (for short, “**the Act**”) besides allowing compensation payable to the complainant.

2. Facts relevant for the purpose of decision of this petition; that

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on 28.08.2009, accused persons namely, Jasmer Singh, Karamjit Kaur and Premo Devi, respondents No. 1 to 3 herein, had caused grievous hurt to complainant Avtar Kaur by way of blunt weapons and case was registered under Sections 323, 325 read with Section 34 IPC.

3. During trial, learned Court below completed various proceedings of trial including framing of charges against the accused, recording of statements of the prosecution witnesses as well as examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and defence version on record, the trial Court held the accused guilty and convicted and sentenced them in the following manner:-

Under Section	Sentence	In default
Section 325 read with Section 34 IPC of Indian Penal Code (for short, "I.P.C.")	to undergo Rigorous Imprisonment for a period of Six months.	-
Section 325 IPC	To pay fine of Rs.500/- each.	-
Section 323 IPC.	to undergo Rigorous Imprisonment for a period of Six months.	-

4. Being aggrieved of passing of the judgment of conviction and the order of sentence, the accused persons (respondents No. 1 to 3 herein) preferred the first appeal before the Court of Session. While considering the appeal, the appellate Court, maintained the judgment of conviction but modified the order of sentence and the accused persons were ordered to be released on probation on their furnishing probation bonds in the sum of Rs.30,000/- each with one surety in the like amount each for a period of one year and they were also directed to pay

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compensation of Rs.7,000/- each to complainant/injured, Avtar Kaur.

5. Dissatisfied with the aforesaid order passed by learned Additional Sessions Judge, the petitioner has preferred the instant revision petition.

6. Learned counsel for the petitioner contended that the injuries caused to the complainant were under Section 325 IPC as well and the accused persons were not entitled to be released on probation and the judgment passed by learned Additional Sessions Judge, Ambala is liable to be set-aside. On this point, reliance was placed upon the judgment in **Pinku @ Nikan Vs. State of Himachal Pradesh, 2015 (5) Law Herald 3565.**

7. Learned counsel representing the respondents contended that learned Additional Sessions Judge has rightly modified the order of sentence, keeping in view the entire circumstances and there is no ground for acceptance of the present revision petition.

8. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that learned Additional Sessions Judge has taken the most reasonable view in the case, especially in the light of the fact that the accused-persons are not previous convicts and the offence alleged against them are under Section 325 IPC and no purpose be served by sending the accused persons behind the bars.

9. In **Karamjit Singh Vs. State (Delhi Admn.) 2001 (9) SCC 161**, Hon`ble Apex Court observed as under:-

“Punishment in criminal cases is both punitive and reformative.

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The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case, the Court has to weigh the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such a case; a balance between the interest of the individual and the concern of the society ; weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law, an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

10. Similar matter was before Hon`ble Apex Court in **Prem Chan Vs. The State of Himachal Pradesh, 2017 ALL MR (Cr.) 5358**, where the accused person was ordered to be released on probation by extending the benefit under the Act for the offences under Section 279 and 377 IPC taking into consideration the fact that there was no complaint regarding the conduct of the accused person during the pendency of the proceedings

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and he was the first offenders only.

11. There is absolutely no illegality in the order passed by learned Additional Sessions Judge because the offences alleged against the accused are under Sections 323, 325 read with Section 34 IPC. As per view 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, accused persons involved in such like cases, who are not previous convicts and not habitual offenders, can be extended the benefit of probation under the Act. Learned first Appellate Court had rightly decided the appeal while modifying the order of sentence and passed order of release of the accused-persons on probation on furnishing probation bonds in the sum of Rs.30,000/- each with one surety in the like amount each for a period of one year and they were also directed to pay compensation of Rs.7,000/- each to complainant/injured, Avtar Kaur. There is absolutely no infirmity in the well reasoned judgment of learned Additional Sessions Judge and the present revision petition is without any merit.

12. Resultantly, the present revision petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

January 11, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes