

CRR-2734-2015

Date of decision: April 04, 2019

Umed Singh and others

....Petitioners

Versus

Azad Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWANPresent: Mr. S.S. Mor, Advocate
for petitioners No.1 to 3.Mr. V.S. Punia, Advocate
for petitioner No.4.Mr. Aashish Sharma, Advocate
for respondent No.1Mr. Deepak Grewal, DAG, Haryana
for respondent No.2-State.**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer made in the instant petition is for setting aside the judgment dated 20.7.2015 passed by the lower appellate Court vide which, while allowing the appeal filed by the respondent-complainant-injured Azad Singh, the judgment of acquittal passed by the trial Court dated 9.6.2009 was set aside and the petitioners were convicted under Sections 323, 325 read with Section 34 IPC and were sentenced to undergo imprisonment for a period of one year and to pay a fine of Rs.1,000/- each, and in default of payment of fine, to further undergo simple imprisonment for a period of five days.

While issuing notice of motion on 3.8.2015, notice was issued only on the point of quantum of sentence/probation.

Counsel for the petitioners has submitted that FIR pertains to the year 2003 and the petitioners and the respondent are the residents of the same village and, thereafter, despite a lapse of sixteen years, the petitioners have not repeated any such offence and shown improvement in their character. It is further submitted that the petitioners remained on bail during trial; their sentence was suspended during the pendency of the first appeal as well as in the present petition and they have not misused the concession of bail in any manner.

Counsel for the petitioners has further submitted that the petitioners are poor persons and they have to support their families and have faced the agony of criminal prosecution for the last about 15 years. Counsel for the petitioners has also submitted that the petitioners are ready to compensate the injured-respondent-Azad Singh by making payment of Rs.40,000/- and submit that the sentence awarded to the petitioners be reduced to probation.

Learned State counsel has raised no serious objection to the same.

Considering the aforesaid submissions made by counsel for the petitioners and also in view of the fact that all the petitioners, namely, Umed Singh, Kuldeep Singh and Rajender, petitioners No.1, 2 and 4, respectively,

have undergone 02 months and 17 days of rigorous imprisonment, while Ram Dass-petitioner No.3 has undergone 03 months and 12 days of rigorous imprisonment out of one year rigorous imprisonment awarded by the trial Court, it is prayed that the sentence of the petitioners be reduced from one year to probation.

Counsel for the petitioners has relied upon Paramjit Singh Vs. State of Haryana, 2011(2) RCR (Criminal) 855 wherein, while allowing an appeal filed by the accused person, this Court has granted benefit of Section 4 of the Probation of Offenders Act, 1958 and has released the accused person on probation with the condition that he shall execute a bond to be of good behaviour for a period of two years and he will be subjected to supervision of the Probation Officer as per the conditions laid down in the Probation of Offenders Act. It was also held in this judgment that as the accused was released on probation, the same may not effect his career in view of Section 12 of the Probation of Offenders Act, 1958.

Considering the fact that the petitioners are facing the trial since 2003 and they, alongwith the complainant, are residents of the same village and subsequent to registration of the FIR, there is no complaint from the side of the complainant and also considering the fact that the petitioners have undergone some sentence, the judgment of conviction passed by the lower appellate Court is upheld, however, the order of sentence is modified and they are directed to

be released on probation for a period of two years. The petitioners will furnish a bond of two years with the Probation Officer as per the condition laid down under the Probation of Offenders Act, 1958. This will be, however, subject to deposit of an amount of Rs.10,000/- each by all the petitioners with the Illaqua Magistrate/Successor Court on or before 1.7.2019, failing which the revision petition shall be deemed to be dismissed without any further order.

It will be open for the complainant-Azad Singh to move an application before the Illaqua Magistrate and withdraw the said amount.

Since the petitioners have been released on probation, they will be entitled to the benefit provided under Section 12 of the Probation of Offenders Act, 1958

The petition stands disposed of, accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

April 04, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No