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

CRR-2214-2016

Date of decision-04.09.2019

Raman Kumar

....Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. J.S.Pannu, Advocate for the petitioner.

Mr. Hittan Nehra, Addl.AG, Punjab.

Mr. Gaurav Tripathi, Advocate for
Mr. Raman Goklaney, Advocate for respondent No.2.

MANOJ BAJAJ, J.

Petitioner-Raman Kumar has challenged the judgment dated 02.04.2016 passed by the Appellate Court whereby the concession of probation extended by the trial Court while convicting the accused on 08.12.2015 in case FIR No.11 dated 13.02.2010 under Sections 323 and 452 of Indian Penal Code, 1860 registered at Police Station City Jalalabad was upheld. The appeal before Court of Additional Sessions Judge, Fazilka was preferred by complainant for enhancement of sentence.

Learned counsel for the petitioner contends that the trial Court after holding respondent No.2 guilty of the offences punishable under Sections 323 and 452 IPC, proceeded to extend the concession of probation and the relevant part reads as under:-

“29. Keeping in view the facts that the convict is aged

*about 65 years, is a first offender and has already faced the agony of law for almost five years, and that is unable to walk freely and can walk only with the help of a walker, in my opinion, the convict deserves the benefit of probation. The object of punishment is not only retributive but also to be reformatory. In **Shiv Kumar Vs. State of Punjab, reported as 1996(1)**, the Hon'ble High Court inter-alia held as follows:-*

“Probation-Object of probation is three-fold- Firstly: Many offenders are not dangerous criminals but are weak character who have surrendered to temptation or through misfortune, have been brought within the operation of the police and Courts- Secondly, in assigning this type of offender to the care of probation officer, the Court encourages his own sense of responsibility for his future and saves them from the stigma and possible contamination of prison-Thirdly, such a practice not only assists the offender, but also results in economy by relieving the prisons of a large number of first offenders, short term prisoners and other classes of quasi-criminal offenders.”

30. Keeping in view the aforesaid principles, the convict is given one chance to reform himself. Sequel, the convict is directed to be released on probation on his furnishing personal bond in the sum of Rs.5,000/- for one year, with undertaking not to repeat the offence and be of good behaviour and with a direction to appear and receive sentence as and when called by this Court. The convict is also burdened with costs of proceedings to the tune of Rs.5,000/-. The case property, if any, be disposed

of under rules after the expiry of period of appeal/revision, if any.”

Learned counsel further contends that against the said decision, appeal was preferred by the complainant/petitioner, however, the same was dismissed as not maintainable. He contends that the appeal was held not maintainable on the ground that the provisions of Section 377 Cr.P.C empowers only the State to challenge the order on the quantum of sentence. He has contended that the amendment in Section 372 Cr.P.C confers the rights upon the complainant as well to challenge the sentence part in case the State has failed to prefer any appeal for enhancement of sentence.

Learned counsel for the petitioner contends that it is a fit case where the sentence imposed upon the accused deserves to be enhanced. He has invited the attention of the Court to the nature of injuries suffered by the petitioner by referring to para 16 of judgment passed by the trial Court, same reads as under:-

“16. Dr. Parveen Kumar Garg, Medical Officer, Civil Hospital, Fazilka-PW-5 stated at trial that on dated 12.02.2010, he was posted as Medical Officer at Civil Hospital, Jalalabad. On that day, he medico-legally examined Raman Kumar son of Rajinder Kumar and recorded the following injuries on his person:-

- 1. A diffuse swelling was present on the left elbow and X-ray was advised.*
- 2. A reddish bruise 10 cm x 2 cm was present on the front and side of the neck and X-ray was advised.*
- 3. Patient complained of pain in the scrotum, no external evidence of injury was present.*

The injuries Nos.1-2 were kept under observation and the injury No.3 declared simple in nature. The probable duration of the injuries was within 6-24 hours. The weapon used for causing the injuries was blunt. The carbon copies of the M.L.R. And the pictorial diagram are Exh.PW-5/A and Exh.PW-5/B, respectively.”

After hearing learned counsel for the parties, this Court does not find any reason to interfere with the sentence part imposed by the trial Court as the same is not disproportionate to the guilt of the convict who was convicted for offences punishable under Sections 323 and 452 IPC. The trial Court had specifically taken into consideration the attending circumstances particularly, the age of the convict who was 65 years of age at that time i.e. on 08.12.2015 and being first offender, an opportunity was given to him to reform himself. It is not the case of the complainant that after availing the said concession of probation, the same was misused or any other crime was committed by him.

In view of the above, no case is made out for interference.

Resultantly, revision petition is dismissed.

(MANOJ BAJAJ)
JUDGE

04.09.2019
vanita

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