

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRR-1215-2017

Date of Decision:01.07.2019

Surjeet Singh

.....Petitioner

Versus

Hanuman and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Satbir Gill, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition against the judgment dated 15.12.2016 passed by learned Additional Sessions Judge, Sirsa, whereby on an appeal filed by respondent Nos.1 and 2 against the judgment of conviction dated 07.08.2013 and order of sentence dated 12.08.2013 passed by learned Judicial Magistrate 1st Class, Ellenabad, they were released on probation as provided under Section 4 of the Probation of Offenders Act, subject to deposit of Rs.20,000/- as prosecution charges and also on their furnishing personal bond in the sum of Rs.50,000/- each with one surety in the like amount for keeping peace and being of good behaviour for a period of one year.

Learned counsel for the petitioner has argued that the prosecution case has been duly proved by leading oral as well as the documentary evidence. It is settled law that as a general rule, a court can and may act on the testimony of a single witness though uncorroborated.

The statement of the complainant is duly corroborated by the statement of

other PWs as well as documentary evidence, but still the Appellate Court

while releasing the accused on probation has resulted in miscarriage of justice to the petitioner and the victim.

Heard learned counsel for the petitioner.

Vide judgment dated 07.08.2013 in FIR No.385 dated 07.12.2017 under Sections 354, 294, 323,34 IPC, registered at Police Station Ellenabad, learned Magistrate has held that the prosecution has failed to prove the charge for the commission of offence punishable under Section 323 read with Section 34 IPC and therefore, extending the benefit of doubt, the accused were acquitted of the charges framed against them under Section 323 read with Section 34 IPC. However, since the prosecution has successfully proved the charge framed against the accused under Section 354 read with Section 34 IPC, accordingly, they were held guilty for the commission of offence punishable under Section 354 read with Section 34 IPC and convicted thereunder.

Vide separate order of sentence dated 12.08.2013, the accused were sentenced to undergo rigorous imprisonment for a period of four months and fine of Rs.200/- for the commission of offence punishable under Section 354 read with Section 34 IPC and in default thereof, to further undergo simple imprisonment for a period of 15 days each.

On appeal preferred by respondent Nos.1 and 2 against the judgment of conviction dated 07.08.2013 and order of sentence dated 12.08.2013 passed by learned Judicial Magistrate 1st Class, Ellenabad, learned Additional Sessions Judge, Sirsa vide judgment dated 15.12.2016 had released respondent Nos.1 and 2 on probation as provided under Section 4 of the Probation of Offenders Act.

Aggrieved against the judgment dated 15.12.2016 releasing the

respondent Nos.1 and 2 on probation, petitioner has filed the present revision petition.

The relevant extract of the judgment dated 15.12.2016 passed by learned Additional Sessions Judge, Sirsa, reads as under:-

“7. Heard. This case was got registered against the accused in the year 2007 and since then they have been facing the trial in this case. Thus, the accused have suffered mentally, physically and economically. Keeping in view the nature of the offence and antecedents of the appellants, while maintaining their conviction and modifying their sentence it is directed that the appellants be released on probation as provided under Section 4 of the Probation of Offenders Act subject to deposit of Rs.20,000/- as prosecution charges and also on their furnishing personal bond in the sum of Rs.50,000/- each with one surety in the like amount each for keeping peace and being of good behaviour for a period of one year and in breach therefor to appear before the learned trial court to serve the sentence as and when called. The amount of fine already deposited before the learned trial court will be treated as costs of the proceedings. Requisite bonds furnished. Accepted and attested. Therefore, the impugned order of sentence dated 12.08.2013 is modified to the extent referred above.”

Considering the fact that respondent Nos.1 and 2 have already completed the awarded sentence, modification in the sentence at this stage would tantamount double jeopardy. Moreover, nothing has come on record, whereby respondent Nos.1 and 2 have violated the terms & conditions of their release of probation. The scope of revisional jurisdiction is very limited. No interference is thus warranted by this Court.

Dismissed.

July 01, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No