

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

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CRR-1362-2017 (O & M)
Date of Decision:23.05.2019

Laxmi Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. H.P.S. Ghuman, Advocate
for the petitioner.

MANOJ BAJAJ, J.

CRM-12292-2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 11 days in filing the petition is condoned.

Application is allowed.

Main Case

The petitioner/complainant is aggrieved against the judgment passed by the learned Appellate Court dated 29.11.2016 upholding the conviction recorded by the learned trial Court and extending the concession of Probation under the Probation of Offenders Act, 1958 to the convicts.

Learned counsel for the complainant/petitioner contends that the learned Appellate Court committed a material illegality by releasing the convicts/accused persons on probation. He further contends that the challenge is only to the sentence part and prays for the restoration of the sentence as imposed by the learned trial Court.

With the assistance of the learned counsel for the petitioner, I have gone through the judgment passed by the learned Appellate Court. The relevant para reads as under:-

*“The ratio of aforesaid cases is fully applicable in facts and circumstances of the case in hand. Admittedly the appellants accused are first offenders and have faced agony of trial since 2006. There is nothing on record to show that after registration of case they have indulged in any criminal activity. Prosecution and counsel for complainant have also failed to point out any legal impediment in release of appellants on probation. Thus, keeping in view the overall facts and circumstances of the case, maintaining judgment of conviction, appellants-accused are ordered to be released on probation of good conduct under the provisions of Section 4 of Probation of Offenders Act, on furnishing personal bonds in the sum of Rs.50,000/- with one surety of the like amount and to keep peace and of good behaviour for a period of one year with an undertaking that they shall keep peace and be of good behaviour. These bonds be furnished before this court. It is further ordered that the appellants-accused shall deposit a sum of Rs.5,000/- each as compensation, over and above the amount which they have already paid as per order of learned trial court to the complainant. The said compensation shall be disbursed to complainant and injured in equal share. In case of default of aforesaid directions, the appeal shall stand dismissed and the appellants shall undergo sentence as awarded by the trial court. The appeal stands disposed of accordingly with the above modification. It is made clear that since appellants Krishan and Mukesh are public servants, therefore, in view of law laid down in **Rajbir Vs. State***

of Haryana, 1985 SCC(CrL)445 it is ordered that conviction shall have no effect on their service. Let a copy of this judgment alongwith Trial Court record be sent back for necessary action. Appeal file be consigned to the record room after due compliance.”

A perusal of the above reveals that the concession is extended on sound judicial principles and a balance has been struck by awarding the compensation to the victim. No material has been brought to the notice of this Court to indicate that the convicts were previously convicted in some other case as well or misused the concession of probation.

This Court does not find any illegality or impropriety in the judgment passed by the Appellate Court, therefore, no interference is called for.

The present petition is dismissed.

23.05.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No