

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

**CRR No.4201 of 2017.
Date of Decision: 04.04.2019.**

Ramesh

....Petitioner.

Versus

Sumit and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by: Mr. Sunny Namdev, Advocate for the petitioner.

Shekher Dhawan, J.

Present revision petition is directed against the judgment dated 08.09.2017 passed by learned Additional Sessions Judge, Bhiwani, whereby respondents No.1 and 2/accused were ordered to be released on probation on their furnishing probation bonds in case F.I.R. No.49 dated 22.01.2015 under Sections 323, 325, 341 read with Section 34 of the Indian Penal Code (for short, 'IPC'), registered at Police Station Sadar, Bhiwani.

2. Learned counsel for the petitioner contended that learned Additional Chief Judicial Magistrate, Bhiwani, acquitted respondents No.1 and 2/accused vide judgment dated 25.07.2016. The petitioner-complainant filed appeal before the Court of Sessions and learned Additional Sessions Judge, Bhiwani, while accepting the said appeal convicted both the accused persons for commission of offence punishable under Sections 323, 325, 341 read with Section 34 IPC.

However, learned appellate Court ordered release of the accused persons on probation on their furnishing probation bonds in the sum of Rs.50,000/- with one surety in the like amount each under Section 360 Cr.P.C. and the accused persons were directed to pay compensation to the complainant-injured.

3. Learned counsel for the petitioner further contended that though learned Additional Sessions Judge, rightly held the accused persons guilty and convicted them under Sections 323, 324 and 341 read with Section 34 IPC, but without considering the character and antecedents of the accused persons, ordered to release them on probation, whereas they should have been ordered to be sentenced substantially by sending them behind the bar.

4. However, learned counsel for the petitioner could not lay his hands on any material indicating that the accused persons were previous convicts or they were involved in any other criminal activity or they were tried for any criminal offence or convicted or sentenced thereunder.

5. In such a situation, there was nothing wrong while learned Additional Sessions Judge, Bhiwani, ordering the accused persons to be released on probation as they are the first offenders. There is absolutely no illegality in the order passed by learned Additional Sessions Judge because the offences alleged against the accused persons and conviction having been recorded are inter-alia under Sections 323, 325, 341 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. Kuldeep 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 thereby ordering for release of the accused-persons on probation on furnishing probation bonds in the sum of Rs.50,000/- with one surety each in the like amount besides allowing compensation in favour of the complainant/injured of this case. There is absolutely no infirmity in the well reasoned judgment of learned Additional Sessions Judge and the present revision petition is without any merit.

6. Resultantly, the present revision petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

04.04.2019

som/jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No