

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

**CRR No.2359 of 2018 (O&M)
Date of Decision: 18.01.2019**

Bishamber Dayal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sandeep Lather, Advocate (Legal Aid Counsel)
for the applicant/petitioner.

MAHABIR SINGH SINDHU, J. (Oral)

CRM No.24887 of 2018

This is an application for condonation of 883 days' delay in filing the present revision.

For the reasons mentioned in the application, the same is allowed.
The delay of 883 days in filing the present revision is condoned.

MAIN CASE

Present revision petition has been filed against the impugned order dated 02.09.2015, passed by learned Sessions Judge, Narnaul, dismissing the application for condonation of delay as well as the appeal against the impugned judgment of conviction and order of sentence dated 06.03.2012 and 13.03.2012, respectively, passed by learned Judicial Magistrate 1st Class, Mohindergarh, vide which, accused Santra and Raju @ Dholiya were held guilty for the commission of offences punishable under Sections 323/34 of the Indian Penal Code, but were granted the benefit of probation.

The only point raised on behalf of the petitioner is that while releasing respondent Nos.2 and 3 on probation, there was no report called from the Probation Officer and thus, the order of learned JMJC, Mohindergarh, releasing them on probation is vitiated in the eyes of law.

Heard learned Counsel for the petitioner and perused the paper-book.

There is no dispute that private respondent Nos.2 and 3 were charge-sheeted under Sections 323/34, IPC and they were convicted by learned trial Court, vide judgment dated 06.03.2012. It is also not in dispute that they are the first offenders and learned trial Court, while taking into consideration this aspect of the matter, released them on probation.

Even during the course of hearing before this Court also, learned Counsel for the petitioner is not able to substantiate that private respondent Nos.2 and 3 are involved in any other criminal case either prior to the passing of the impugned order of probation or subsequent thereto. Merely by alleging that there was no material available on record while releasing them on probation is not acceptable. Moreover, respondent Nos.2 and 3 were released on probation wayback on 13.03.2012 and till date, there is nothing adverse against them that they have indulged in any criminal activities.

In view of above, there is no merit in the present petition and the same is hereby dismissed.

January 18, 2019

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes