

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.98 of 2018 (O&M)

DATE OF DECISION: JULY 25, 2019

RAM NIWAS

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. K.K. CHAHAL, ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

Petitioner-complainant has preferred this revision petition against the judgement dated 1.8.2017 passed by the appellate Court, whereby while upholding the judgement of conviction dated 13.11.2014 under Section 323 IPC against respondents No.2 to 5, the order of sentence dated 15.11.2014 for 6 months simple imprisonment, with fine of Rs.500/- and in default to further undergo 10 days, as awarded by the Sub Divisional Judicial Magistrate, Hansi was modified by extending the concession of probation. At the same time, a sum of ₹8000/- each was ordered to be paid as compensation.

The FIR in the present case was registered at the instance of petitioner-Ram Niwas with the allegations that he was Incharge of Election campaigning Committee of Congress Party for Hisar Parliamentary Constituency. On 2.5.2009, he alongwith his companions had gone to village Kulana in 4-5 vehicles for campaigning and while they were going towards Dhania in a vehicle bearing Registration No.HR99CUT/9146, 4-5

persons having muffled faces suddenly came in front of their vehicle and took hold of it while pointing gun on the driver. They dragged out all the four occupants of the vehicle in the Dhani and detained them in a room. The accused were identified by the victims as Dulla, Ramesh @ Jindal, Bir Singh, Dharampal and Chhabila. It was alleged that fist blows were given on face of one Lal Singh and an amount of ₹14000/- and a diary was taken from the pocket of the petitioner, whereas a sum of ₹1500/- was taken from the pocket of Lal Singh by Dulla. The victims raised hue and cry and in the meantime, other vehicles accompanying the vehicle of the complainant reached there and rescued them. On the basis of the above statement, FIR No.225 dated 3.5.2009 under Sections 147, 149, 323 and 506 IPC was registered at Police Station City Hansi.

After arrest of accused, investigation was carried out and upon completion, final report under Section 173 Cr.P.C. was submitted before the trial Court, who were charge-sheeted for the offences punishable under Sections 147, 323, 506 read with Section 149 IPC.

The prosecution in all examined 8 witnesses to prove its case, and thereafter statements of accused were recorded under Section 313 Cr.P.C., who denied the charges and pleaded innocence and tendered into evidence Exs.D1 to D8.

The trial Court after examining the testimonies of the prosecution witnesses and other material evidence on record convicted the accused-respondents No.2 to 5 under Section 323 IPC and sentenced them as noticed above, whereas the other co-accused were acquitted of the

charges.

Aggrieved against the said judgement, the accused-respondents No.2 to 5 preferred an appeal before the Sessions Judge, Hisar and pleaded for benefit of probation, by giving up challenge to the judgement of conviction passed by the trial Court. The appellate Court considered the prayer that the accused-appellants were poor persons and being first offenders had also undergone the agony of trial since 2009, who were now residing peacefully for last many years. The convicts also offered to the victims to pay suitable compensation and proceeded to modify their sentence and released them on probation.

Hence, the present revision petition by the petitioner-complainant.

It has been argued by learned counsel for the petitioner that the appellate Court has grossly erred in granting the concession of probation to respondents No.2 to 5. All the offences were duly proved before the trial Court. Learned counsel submits that the attack on the petitioner was pre-meditated and respondents No.2 to 5 had every intention to harm the petitioner.

Learned counsel for the petitioner has relied upon the judgement in **M.C.D. vs. State of Delhi and another, 2005(3) RCR (Criminal) 13**, to contend that the appellate Court failed to receive the report of the Probation Officer and in the absence of the same, the mandatory provision as provided under Section 4 of the Probation of Offenders Act has not been followed. However, the ratio laid down in the

said judgement is not disputed. It is also not disputed by the learned counsel that the prayer for grant of probation was made before the trial Court as well, however, the same was declined.

A perusal of the impugned judgement reveals that the appellate Court has struck a balance by awarding adequate compensation to the injured-victims and concession is also founded on sound judicial principles. It may be noticed that the trial Court had declined the similar prayer without considering the attending circumstances in that regard while imposing sentence of 6 months S.I.

Considering the fact that by now, more than 10 years have elapsed since the occurrence and that there is no untoward incident between them and therefore, considering the fact that the period of probation is also over and the complainant stand adequately compensated, this Court does not find any reason to exercise the revisional jurisdiction.

Resultantly, the revision petition as well as the application for condonation of delay are dismissed.

July 25, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

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