

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

Criminal Revision No.437 of 2017

Date of Decision: January 13, 2020

Gurmeet Singh

...Petitioner

Versus

Lakhvir Singh @ Lakha & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. N.K.Manchanda, Advocate,
for the petitioner.

Mr. P.S.Walia, AAG, Punjab,
for the State.

MANOJ BAJAJ, J.

Complainant-Gurmeet Singh has filed this revision petition to challenge the judgment dated 17.10.2016 passed by the Additional Sessions Judge, Moga in case FIR No.63 dated 17.05.2008, under Sections 324, 325, 34 IPC, Police Station, Mehna, whereby the Appellate Court modified the sentence part by extending the benefit of probation to respondent Nos.1 and 2. The respondents were convicted and sentenced by the trial Court vide judgment dated 07.02.2014 and the sentence awarded reads as under:-

Convict	Under Section	Sentence
Lakhvir Singh	325 IPC	Rigorous imprisonment for 1 year alongwith fine of ₹500/- and in default, to further undergo rigorous imprisonment for 10 days
	323 IPC	Rigorous imprisonment for 6 months
Zora Singh	325 read with Section 34 IPC	Rigorous imprisonment for 1 year alongwith fine of ₹500/- and in default, to further undergo rigorous imprisonment for 10 days
	323 read with Section 34 IPC	Rigorous imprisonment for 6 months

All the sentences were ordered to run concurrently.

The FIR in question was registered on the basis of the statement given by complainant Gurmeet Singh, wherein it was alleged that he along with his father Jarnail Singh and son Gurpreet Singh visited their fields on 06.05.2008 for sowing the seeds and it was found that the accused caused a breach in the watercourse, which had flooded their fields. When they asked the accused, it was disclosed that it was not done deliberately. It was narrated that when complainant asked for making good the loss suffered by him, the accused persons caused injuries to them. On these broad allegations, the FIR was registered for the commission of offences against the human body punishable under Sections 325 and 323 IPC. After completion of the investigation, the accused were sent to face trial.

The prosecution, in order to bring home the guilt of the accused, examined five witnesses and thereafter statements of accused under Section 313 Cr.P.C. were recorded. The trial Court, after examining the material and evidence on record, convicted the accused vide its judgment dated 07.02.2014 and imposed the sentence, as noticed above.

Aggrieved against the said judgment of conviction and order of sentence dated 07.02.2014, an appeal was carried by the accused, wherein the Appellate Court, while maintaining the conviction, modified the sentence part by extending the benefit of probation. The limited challenge laid in this revision petition is only to the sentence part.

Learned counsel for the petitioner has contended that the Appellate Court erred in releasing the convicts on probation as the prosecution had proved the guilt of accused. According to him, Zora Singh provoked convict Lakhvir Singh, who gave gandas blows on the

complainant and his father and, therefore, respondents do not deserve any leniency in view of the injuries received by the complainant and his father. He submits that the sentence imposed by the trial Court was proportionate to the guilt of the accused and, therefore, the impugned decision warrants interference by this Court. It is prayed that the sentence awarded by the trial Court be restored.

I have heard learned counsel for the petitioner and gone through the case file carefully. A perusal of the judgment dated 17.10.2016 clearly reveals that the Appellate Court, while releasing the private respondents on probation, has considered the fact that the respondents were facing the agony of trial and appeal for the last about eight years, who were first offenders. During the course of hearing, it is not disputed by the learned counsel that the period of probation ordered by the Appellate Court is already over. Apart from it, a balance has been struck by the Appellate Court by awarding a compensation of ₹ 15,000/- to the injured by invoking the provisions of Section 357 Cr.P.C. As the Appellate Court has considered the background of the case carefully along with other attending circumstances while releasing the respondents on probation, therefore, this Court does not find any illegality or impropriety in the impugned judgment dated 17.10.2016. Resultantly, no ground is made out for interference.

Dismissed.

January 13, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No