

(248) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1474-2019(O&M)
Date of Decision:05.07.2022

Karnail Singh

... Petitioner

Versus

Chand Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

JASJIT SINGH BEDI, J.

CRM-19256-2019

The present application has been filed by the learned counsel for the applicant-petitioner for condonation of delay of 462 days in filing the present petition.

For the reasons mentioned in the application, the same is allowed and the delay of 462 days is hereby condoned.

CRR-1474-2019

The present revision petition has been filed against the impugned judgment dated 18.07.2017 passed by the learned Additional Sessions Judge, Sangrur, whereby the appeal of the petitioner-complainant against the judgment dated 18.03.2015 passed by the learned Additional Chief Judicial Magistrate, Sangrur convicting and granting probation to respondent Nos.1 and 2, has been dismissed.

2. The brief facts of the case are that the complainant filed a complaint against the accused for having committed the offences punishable under Sections 307, 323, 324, 325, 326, 506, 34 of the Indian Penal Code.

3. On the basis of preliminary evidence, having been led by the petitioner/complainant, the accused-respondents were ordered to be summoned for having committed the offences under Sections 323, 506, 34 of the Indian Penal Code vide order dated 01.04.2014.

4. On the basis of the summoning order the accused appeared and were ordered to be released on bail. The complainant-Karnail Singh thereafter examined himself as CW1 in the pre-charge evidence and further examined CW2-Anil Kumar Mittal, Pharmacist, C.H.C. Bhawanigarh, CW3-Dr. Ramandeep Kaur, Medical Officer, CW4-Mahinder Kaur and thereafter the learned counsel for the complainant closed the pre-charge evidence after tendering the C.T. scan report as mark CA.

5. The complainant-Karnail Singh while stepping into the witness box as CW1 deposed as per the contents mentioned in the complaint.

6. CW2-Anil Kumar Mittal from C.H.C. Bhawanigarh while supporting the case of the complainant proved the signatures of Dr. Priya Gupta on the M.L.R., which is Ex.C3.

7. CW3-Dr. Ramandeep Kaur also fully supported the case of the complainant and proved the referral slip as Ex.C4.

8. CW4-Mahinder Kaur wife of the complainant while stepping into the witness box deposed as per the testimony of complainant-Karnail Singh.

9. After considering the pre-charge evidence of the complainant and after hearing both the parties, a prima-facie case under Sections 323, 506, 34 of the IPC was made out against the accused and they were charge-sheeted accordingly, to which the accused pleaded not guilty and claimed trial.

10. Statements of the accused under Section 313 Cr.P.C. were recorded in which, all the incriminating evidence appearing against them was put to the accused, to which they pleaded innocence and false implication. Due opportunity was given to the accused to lead defence evidence, but no witness was examined by the accused in their defence. The accused in their defence evidence tendered the document Ex.D1 and closed the defence evidence.

11. Based on the evidence led and the relevant record, the Trial Court came to the conclusion that the complainant-petitioner had been able to prove his case beyond reasonable doubt and proceeded to convict the accused-respondents for having committed offences under Sections 323, 506 read with Section 34 of the IPC. However, keeping in view the fact that the convicts were poor persons and first-time offenders they were ordered to be released on probation on their furnishing probation bonds in the sum of Rs.10,000/- each with an undertaking that they would not repeat this offence and would appear before the Court to receive the sentence during the period of six months.

12. The complainant-Karnail Singh preferred an appeal before the Court of Additional Sessions Judge, Sangrur. The said Court came to the conclusion that the appeal was not maintainable under Sections 372 Cr.P.C. as also under the provisions of the Probation of Offenders Act, 1958. However, the Court nevertheless held that the Trial Court had duly considered the evidence before arriving at the findings that the accused had caused simple injuries. Thus, the appeal being not maintainable was dismissed vide judgment dated 18.07.2017.

13. The learned counsel for the petitioner contends that the Trial Court has misread the evidence on the file and wrongly released the respondent-accused on probation by holding them guilty for a lesser offence. He contends that in view of the facts and circumstances, the accused ought not to have been released on probation. He contends that though the complaint had been filed under Sections 307, 323, 324, 325, 326, 506, 34 IPC against the respondent-accused but the learned Trial Court had wrongly summoned the accused for having committed an offence under Sections 323 read with Section 506 and Section 34 and had gone on to convict the accused for the said offences. It was thus his contention that an offence under Section 307 IPC was made out in view of the fact that the respondent-accused had the necessary intention to kill him.

14. I have heard the learned counsel for the petitioner at length.

15. Undoubtedly, the complaint was filed under Sections 307, 323, 324, 325, 326, 506, 34 of the Indian Penal Code. However, respondent Nos.1 and 2 came to be summoned only for having committed the offences under Sections 323, 506, 34 of the IPC vide order dated 01.04.2014. Charge was framed against the accused under the same Sections vide order dated 13.02.2015. None of these two orders were ever challenged by the complainant and therefore, the trial proceeded against the respondent-accused for having committed the offences under Sections 323, 506 and 34 alone. In this view of the matter, at this stage it cannot be said that an offence under Section 307 IPC is made out against the accused-respondent Nos.1 and 2.

16. Further, the judgment of the learned Trial Court cannot be faulted on account of the fact that the accused were convicted and sentenced to undergo probation since the accused were poor persons and first-time offenders. Even otherwise, the complainant and petitioner No.1 are real brothers and not seasoned criminals so as to enable the Court to come to a conclusion that the sentence of probation imposed upon them is an inadequate.

17. In view of the aforesaid discussions, I find no merit in the present revision petition and therefore, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

05.07.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No