

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

**CRR-198 of 2008 (O&M)
Date of Decision: 17.11.2022**

Narata Singh **...Petitioner**

Versus

State of Punjab & Ors. **...Respondents**

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Argued by:- Mr. Gunjeet Brar, Advocate for
Mr. Vikas Singh, Advocate
For the petitioner.**

Ms. Kanika Sachdeva, AAG Punjab.

None for private respondents No.2 to 5.

KARAMJIT SINGH, J.

The present revision petition has been filed by the petitioner against the judgment dated 24.09.2007 passed by the Court of learned Additional Sessions Judge, Fatehgarh Sahib, whereby the conviction of the respondents No.2 to 5 under Sections 323/ 324 read with Section 34 IPC was upheld but the said respondents were ordered to be released on probation.

The brief facts of the case are that FIR No.23 dated 11.05.1998 was registered under Section 323/ 324/ 34 IPC at Police Station Amloh on the basis of statement of petitioner Narata Singh wherein he stated that on 10.05.1998 at about 4:30 p.m. the petitioner was present in his land and at that time respondent No.2 Jaspal Singh who was having adjoining land, came at the spot and raised *lalkara* and then respondent No.5 Daljit Singh gave fist blow on the left eye of the petitioner, respondent No.4 Nirbhay

Singh gave blow from blunt side of spade which hit on the left little finger of petitioner while respondent No.3 gave *soti* blow on his nose as a result of which the petitioner fell on the ground. Thereafter, respondent No.2 Jaspal Singh gave *soti* blow on his back and when the petitioner raised hue and cry, respondents No.2 and 5 attacked Jarnail Kaur, daughter in law of the petitioner with sticks and then they fled away from there. The petitioner and his daughter in law were removed to Civil Hospital, Amloh and on receiving the information police also reached there and recorded the statements of injured persons and then the investigation was conducted. On completion of investigation the challan was presented against respondents No.2 to 5.

The trial Court framed charges under Sections 323/ 324/ 34 IPC against respondents No.2 to 5 to which they plead not guilty and claimed trial.

During trial the prosecution examined PW1 Dr. B.S. Chhabra, SMO who proved the medico-legal report of the petitioner and his daughter in law, PW2 Narata Singh (petitioner), PW3 Jarnail Kaur, PW4 ASI Balwant Singh and PW5 Parvinder Kaur Radiographer.

Thereafter, respondents No.2 to 5 were examined under Section 313 Cr.P.C and the entire incriminating evidence was put to them but they denied the same and pleaded innocence. The said respondents examined DW1 Jagga Singh and DW2 Harnek Singh and also tendered documents Ex.D1 to Ex.D3 and Ex.DX in their defence evidence.

After hearing the learned APP for the State and the defence counsel, the trial Court convicted respondents No.2 to 5 under Sections 323/ 324/ 34 IPC and sentenced them to undergo rigorous imprisonment for one year each and to pay a fine of Rs.100/- each and in default of payment of fine to undergo rigorous imprisonment for two months each under Section 324/ 34 IPC and rigorous imprisonment for six months each and to pay a fine of Rs.100/- each and in default of payment of fine to undergo rigorous imprisonment for two months each under Section 323/ 34 IPC vide judgment and order dated 29.11.2004.

Being aggrieved respondents No.2 to 5 filed an appeal against the aforesaid judgment and order of trial Court. The Appellate Court vide judgment dated 24.09.2007 upheld the conviction of respondents No.2 to 5 as has been detailed above, but modified the order of sentence and gave direction to release the said respondents on probation under Section 4(1) of the Probation of Offenders Act on furnishing requisite bonds and to keep peace and be of good behavior for a period of six months and further directed them to pay Rs.1000/- each as costs of litigation and the said cost was ordered to be paid to injured complainant and injured witness.

The petitioner aggrieved by the said judgment of Appellate Court has filed the present revision petition with the prayer that order of sentence of imprisonment passed by the trial Court should be upheld.

On notice of motion, none has put in appearance on behalf of respondents No.2 to 5.

I have heard the counsel for the petitioner and the State counsel.

The counsel for the petitioner has submitted that the Appellate Court wrongly granted concession of probation to respondents No.2 to 5. The counsel for the petitioner has further contended that at the time of occurrence petitioner Narata Singh was 80 years of age and was brutally attacked by respondents No.2 to 5 and the said respondents also did not spare Jarnail Kaur daughter in law of the petitioner. That in these circumstances respondents No.2 to 5 do not deserve any leniency and thus are not entitled to get concession of probation and should be sent to jail to serve the sentence awarded by the trial Court.

The State counsel has also supported the aforesaid assertions made by counsel for the petitioner.

I have considered the submissions made by the counsel for the petitioner.

In the present case respondents No.2 to 5 were convicted and sentenced to imprisonment by the trial Court vide judgment dated 29.11.2004 as has been detailed above. The appeal filed by respondents No.2 to 5 against the said judgment was partly allowed and their conviction was upheld but the Appellate Court granted them concession of probation as has been described above. The petitioner has challenged the said order of probation passed by the Appellate Court.

The basic purpose of probation is to allow the accused an opportunity to rehabilitate without incarceration. The goal of probation is

two folds; to protect society and to rehabilitate the offender. Thus probation encompasses rehabilitation, reintegration, punishment and deterrence as well as crime control. The major goal of the Probation of Offenders Act, 1958 is to provide the offenders the opportunity to mend rather than become hardened criminals. The aim of the said Act is to prevent offenders like respondents No.2 to 5 from being committed to jail, where they may associate with hardened and habitual criminals, who may lead them further to path of crime.

In the present case, the Appellate Court while granting a concession of probation to respondents No.2 to 5 took into consideration the facts and circumstances of the case and the gravity of the offence committed by them and their antecedents. The Appellate Court also burdened respondent No.2 to 5 with costs of Rs.1000/- each, which was to be disbursed as a compensation to the petitioner and injured witness. Counsel for the petitioner has failed to show that the said cost was not paid or that during the period of probation of six months, respondents No.2 to 5, misused the said concession or committed breach of terms and conditions of probation bonds furnished by them by repeating offence of similar nature. Also there is nothing on record to establish that respondents No.2 to 5 were previous convicts.

In the light of above, this Court is of the view that counsel for the petitioner has failed to point out any perversity or illegality in the impugned judgment passed by the Appellate Court dated 24.09.2007.

Consequently, the present revision petition is hereby dismissed
being devoid of merits.

17.11.2022

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No