

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRR-4547-2015

Date of Decision: 12.7.2022

Ramesh

....Petitioner

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ramender Chauhan, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present revision petition has been filed by the petitioner against the judgment dated 21.8.2015 passed by learned Additional Sessions Judge, Bhiwani confirming and upholding the judgment and order dated 11/12.12.2014 passed by learned JMIC, Bhiwani whereby respondents No.2 to 4 were convicted under Section 323 read with Section 34 IPC and released on probation.

Brief facts of the case are that the petitioner filed a criminal complaint against respondents No.2 to 4 in the Court of Illaqa Magistrate in which he alleged that he is occupying shop bearing Municipal No.Y-2075 as tenant under respondents No.2 to 4; that respondents No.2 to 4 wanted to dispossess him from the said shop illegally and on this, the complainant filed civil suit against the said respondents. On 10.2.2010 at about 3:30 p.m., respondents No.2 to 4 along with employees of Municipal Council, Bhiwani arrived at the aforesaid shop and started demolishing it. When the complainant showed them copy of the stay order of the Court, the accused

persons had torn the same and then they went away from there. On 17.2.2010 at about 5 p.m., the complainant was sitting in front the aforesaid shop along with Lala son of Rai Singh and at that time, respondents No.2 to 4 along with 60-70 persons came there and started beating the complainant and they also caused damage to the shop of the complainant with the help of JCB machine. The complainant reported the matter to the police but the police failed to take any action.

After completion of preliminary evidence, respondents No.2 to 4 were summoned to face trial under Sections 323, 452 read with Section 34 IPC. Respondents No.2 to 4 appeared in the trial Court, pursuant to the aforesaid summoning order.

In the pre-charge evidence, the complainant examined CW1 Lala, CW2 Shiv Kumar and CW4 Ashok Kumar and he himself appeared in the witness box as CW3.

On conclusion of pre-charge evidence, the trial Court framed charges under Sections 323, 452 read with Section 34 IPC against respondents No.2 to 4 to which they did not plead guilty. After conclusion of the post charge evidence of the complainant, respondents No.2 to 4 were examined under Section 313 Cr.P.C. and they tendered documents Ex.D1 to Ex.D4 in their defence.

After hearing both the parties, the trial Court convicted respondents No.2 to 4 under Section 323 read with Section 34 IPC and ordered that they be released on probation vide judgment and order dated 11/12.12.2014.

Being aggrieved, the petitioner as well as respondents No.2 to 4

filed separate appeals. Respondents No.2 to 4 made prayer in their appeal

challenging their conviction and order of probation. The petitioner filed appeal challenging acquittal of respondents No.2 to 4 under Section 452 IPC and for enhancement of sentence.

The appellate Court dismissed both the said appeals vide judgment dated 21.8.2015 while upholding the judgment and order dated 11/12.12.2014 passed by the trial Court.

Present revision petition has been filed by the petitioner with prayer that the impugned judgment dated 21.8.2015 passed by the appellate Court whereby the judgment and order dated 12.12.2014 passed by the trial Court has been upheld, be modified.

I have heard counsel for the petitioner.

Counsel for the petitioner contends that the trial Court wrongly granted the concession of probation to respondents No.2 to 4. Counsel for the petitioner further contends that respondents No.2 to 4 who along with their companions attacked the petitioner and caused injuries to him, should have been sentenced to imprisonment by the trial Court in accordance with law. He further contends that in view of the facts and circumstances of the present case, respondents No.2 to 4 are not entitled to any leniency and accordingly, they be sentenced to imprisonment under Section 323 read with Section 34 IPC.

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

Admittedly, respondents No.2 to 4 were convicted under Section 323 read with Section 34 IPC and released on probation by the trial Court and at the same time, they were acquitted under Section 452 IPC.

dismissed by the first appellate Court vide judgment dated 21.8.2015 and the judgment and order passed by the trial Court were upheld.

Sections 3 and 4 of Probation of Offenders Act and Section 360 of Cr.P.C. provides for grant of concession of probation to the offenders. These statutory provisions lay down the reformatory and correctional object of sentencing and obligates the trial Court as well as the appellate Court to give benefit of probation in fit cases as provided under law.

Maximum punishment provided under Section 323 IPC is imprisonment for a period of one year or with fine which may extend to ₹1000/- or with both. The trial Court while granting the concession of probation to respondents No.2 to 4 took into consideration the fact that all the accused were first offenders and faced the agony of trial for about 4 years. The trial Court while granting concession of probation further imposed condition that same would be subject to the supervision of District Probation Officer. Counsel for the petitioner has failed to show that during the said period of probation of one year, respondents No.2 to 4 repeated same type of offence or committed breach of the terms and conditions of probation bonds furnished by them.

In the instant case, the trial Court took into consideration the age, character and antecedents of respondents No.2 to 4 and further the fact that offence under Section 323 IPC is not of serious nature, while granting them the benefit of probation.

In light of above, this Court is of the view that counsel for the petitioner has failed to point out any patent legality or irregularity in the impugned judgment/order to the extent it is under challenge.

In view of above, this Court is of the view that no ground to

interfere in the matter is made out in the present revision petition.
Consequently, the same is hereby dismissed.

(KARAMJIT SINGH)
JUDGE

July 12, 2022

Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No