

CRR-4653-2015

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

**CRR-4653-2015
Date of Decision: 09.03.2022**

Ram

... Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jasmeet Singh Ghuman, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, DAG, Punjab.

Mr. Archin Gupta, Advocate for respondent Nos.2 to 5.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred by the petitioner-complainant against the order dated 20.07.2015 passed by the learned Additional Sessions Judge (Fast Track Court), Bathinda, whereby the appeal preferred by accused-respondent Nos.2 to 5, against the judgment of conviction and order of sentence dated 07.01.2015 passed by learned Additional Chief Judicial Magistrate, Bathinda, has been disposed of and while upholding the judgment of conviction and order of sentence, the accused were ordered to be released on probation.

2. The brief facts of the case are that on 20.12.2012 on receipt of a ruqa from Civil Hospital, Ludhiana, ASI Sudagar Singh alongwith other police officials visited Civil Hospital, Budhlada and took the opinion of the doctor and the doctor reported that the patient had been shifted to Civil

Hospital, Mansa. Thereafter, on 21.12.2012 and 23.12.2012 the doctor reported that the patient is not fit to make the statement. Thereafter, on 24.12.2012 he got recorded the statement of complainant Ram S/o Somi, resident of Budhladha to the effect that he is resident of above said address. On 20.12.2012 there was a special of rice on the railway and a lot of labourer (paledar) were present there. Their children were committing theft of rice. Thereafter, the labourer started throwing stones towards them and they also threw stones towards them. His wife Suman had undergone a surgery and she was under treatment. His wife Suman on seeing the dispute, became worried and thereafter he was taking his wife towards hospital on the rehri and when he taking his wife towards hospital on the rehri and when he reached near railway line then Amar Singh s/o Harbans and his father Harbans started beating him. Amar Singh gave a stick blow on the back of his head. Thereafter, his father gave a stick blow on the front side of his head and thereafter he fell down. Meanwhile Ranjit and Babby gave stick blows on his person. Thereafter, he became unconscious and he was admitted at Civil Hospital. Thereafter, they received the x-ray report on 26.12.2012 and the doctor advised bed rest and they also received bed head ticket. Accused were arrested on 30.12.2012. Investigation was done. Statements of witnesses were recorded. After completion of the investigation, challan was presented in the Court against the accused for trial.

3. Pursuant thereto, the evidence came to be recorded and respondent Nos.2 to 5 came to be convicted by the learned trial Court on 07.01.2015 and sentenced as under:-

<i>Sr. No.</i>	<i>Name of convict</i>	<i>Sentence under Section</i>	<i>RI Awarded</i>	<i>Fine</i>	<i>In default of payment of fine to further RI for</i>
1.	<i>Harbans Singh</i>	<i>325 IPC</i>	<i>2 years</i>	<i>Rs.1000/-</i>	<i>One month</i>
2.	<i>Amar Singh</i>	<i>325/34 IPC</i>	<i>2 years</i>	<i>Rs.1000/-</i>	<i>One month</i>
3.	<i>Ranjit Singh</i>	<i>325/34 IPC</i>	<i>2 years</i>	<i>Rs.1000/-</i>	<i>One month</i>
4.	<i>Akbar Singh</i>	<i>325/34 IPC</i>	<i>2 years</i>	<i>Rs.1000/-</i>	<i>One month</i>
5.	<i>Harbans Singh</i>	<i>323 IPC</i>	<i>6 months</i>	<i>Rs.200/-</i>	<i>15 days</i>
6.	<i>Amar</i>	<i>323 IPC</i>	<i>6 months</i>	<i>Rs.200/-</i>	<i>15 days</i>
7.	<i>Ranjit Singh</i>	<i>323 IPC</i>	<i>6 months</i>	<i>Rs.200/-</i>	<i>15 days</i>
8.	<i>Akbar Singh</i>	<i>323 IPC</i>	<i>6 months</i>	<i>Rs.200/-</i>	<i>15 days</i>

4. The accused preferred an appeal before the Court of learned Additional Sessions Judge, Bathinda, which was disposed of on 20.07.2015 and while upholding the judgment of conviction and order of sentence, the accused were ordered to be released on probation on furnishing of probation bonds in the sum of Rs.25,000/- with one surety each in the like amount thereby undertaking to maintain peace and be of good behaviour for a period of one. They were directed to pay a compensation amount to the tune of Rs2,500/- each to the victim.

5. The present revision has therefore been preferred by complainant-victim, namely, Ram with a prayer that accused-respondents No.2 to 5 ought to have been ordered to undergo imprisonment as has been imposed by the learned trial Court and should not have been released on probation.

6. The learned counsel for the petitioner-complainant contends that the offence was proved beyond shadow of doubt. Even the learned Appellate Court though has upheld the judgment of conviction and order of sentence

passed by the learned trial Court, yet the fact remains that the accused were ordered to be released on probation. He further submits that Harbant Singh along with the co-accused, in furtherance of his common intention, cause grievous as well as simple injuries on the injured. The injury No.1 on the person of the injured is grievous in nature and the other injuries attributed to other accused, namely Amar, Ranjit Singh and Akbar Singh, are simple. He thus, contended that the manner in which the occurrence and the nature of offence committed did not entitle the respondents-accused to the benefit of probation and such a lenient view would encourage the accused to commit such crimes in future, as well. He thus, contended that the Courts below should take a deterrent approach while dealing with such offences and a lenient view would only encourage the accused, who have a criminal bent of mind, to repeat the crime. He finally contended that the compensation so awarded by the learned Courts below was a meagre one and thus, no justice was done to the petitioner.

7. The learned counsel for respondent Nos.2 to 5-convicts, on the other hand, contended that all the accused, are poor persons and the alleged occurrence had taken place approximately 10 years ago and since then, they are facing the agony of trial. They also have their families to look after; that they are the first time offenders and that after the said occurrence, none of them have committed any other offence. He thus, prayed that the order of the learned Additional Sessions Judge (Fast Track Court), Bathinda, releasing the respondents on probation was perfectly legal and does not call for any interference by this Court.

8. I have heard the learned counsel for parties.

9. Admittedly, all the accused persons are the first time offenders and as per the contentions of their counsel, have not committed any other offence pursuant to the occurrence in dispute, which is also of the year 2012. Further, the convicts are facing the agony of trial for about 10 years. They are all poor persons, with their families to look after and as such sending them behind bars after almost 10 years of the occurrence would not serve any purpose.

10 In view of the above, no ground is made out to interfere with the well-reasoned order passed by the learned Appellate Court as well as the judgment passed by the learned trial Court and the same are hereby upheld. However, the compensation amount awarded by the learned trial Court, which was affirmed by the learned Appellate Court, is hereby enhanced from Rs.2,500/- each to Rs.5,000/- each. The same shall be deposited within a period of 04 weeks from today by each of the convicts before the Illaqa Magistrate/Duty Magistrate Concerned. This amount will be released to the petitioner-complainant upon an application moved by him for this purpose.

11. The present revision petition is disposed of, accordingly.

(JASJIT SINGH BEDI)
JUDGE

09.03.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No