

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 228

Case No. : Crl. Revn. No. 1111 of 2017

Date of Decision : August 18, 2022

Om Parkash Petitioner

VS.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR.

* * *

Present : Mr. Amit Kumar Jain, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

* * *

NAMIT KUMAR, J. (Oral) :

Petitioner Om Parkash has filed the instant revision petition assailing judgment dated 16.12.2016 passed by learned Additional Sessions Judge, Fatehabad, thereby releasing respondents no.2 to 5 on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958 (hereinafter referred to as – 'the Act'), while upholding the judgment dated 13.01.2014 of conviction and order dated 15.01.2014 passed by learned Sub Divisional Judicial Magistrate, Tohana.

Brief facts of the case are that on 26.07.2009, the petitioner-complainant Om Parkash and his family members were attacked by respondents no.2 to 5 and FIR No.229 dated 26.07.2009 under Sections 323, 324 and 34 IPC was got registered at Police Station City, Tohana, in this regard. Finding a case against the accused persons – respondents no.2 to 5, vide order dated 15.01.2014, passed by learned Sub Divisional Judicial

Magistrate, Tohana, they were sentenced to undergo the following imprisonment :-

<i>Section</i>	<i>Imprisonment awarded</i>
323 IPC read with 34 IPC	Sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.200/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period of 15 days.
324 IPC read with 34 IPC	Sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period of one month.

However, both the sentences were ordered to run concurrently.

The aforesaid order dated 15.01.2014 was challenged by respondents no.2 to 5 in appeal before learned Additional Sessions Judge, Fatehabad, who, vide his order dated 16.12.2016, partly allowed the appeal by upholding the judgment of conviction and modified the quantum of sentence by ordering to release them on probation of good conduct under Section 4 of the Act, on his entering into a bond in the sum of Rs.5,000/- with one surety in the like amount each for a period of six months to receive the sentence when called upon during the said period and in the meantime, to keep the peace and be of good behaviour. In addition, the appellants (respondents no.2 to 5 herein) were directed to pay an amount of Rs.20,000/- (Rs.5,000/- each) as compensation to both the injured persons i.e. the petitioner and one Parveen (Rs.10,000/- each), failing which the probation order would cease to operate and the order of sentence would stand.

Feeling aggrieved, petitioner Om Parkash has filed the instant revision petition with a prayer that the aforesaid judgment dated 16.12.2016 passed by learned Additional Sessions Judge, Fatehabad be modified and the respondents no.2 to 5 be ordered to undergo the actual sentence.

I have heard learned counsel for the petitioner and perused the record.

Learned trial court as well as the lower appellate court have discussed the evidence led by both the parties in details and thereafter, convicted and sentenced the accused persons – respondents no.2 to 5. It is evident from the record that the learned appellate court has not erred in passing the impugned judgment as the dispute in question pertains to the year 2009 and the impugned judgment was passed in the year 2016. During this interregnum of more than seven years, the respondents no.2 to 5 have already undergone mental agony. Moreover, they are not having any criminal background, nor are they involved in any other criminal case except the case in hand. In addition to whatever has been discussed above, the complainant party has already been compensated by the accused party by paying them Rs.20,000/- for the injuries caused to them.

In my considered view, no useful purpose would have been served by keeping the respondents no.2 to 5 behind the bars for the lower appellate court has not erred in taking a lenient view while passing the judgment dated 16.12.2016, after considering all the facts and circumstances of the case.

Accordingly, there is no merit in the present revision petition and the same is accordingly dismissed in limine.

August 18, 2022

(NAMIT KUMAR)
JUDGE

monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.