

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

CRR No. 2988 of 2018 (O&M)

Date of decision: 16.11.2022

Mahipal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision is for setting aside the judgment of conviction dated 22.08.2016 and order of sentence dated 24.08.2016, passed by the trial Court, vide which the petitioner was held guilty of commission of offence punishable under Sections 323, 325 of the IPC and was sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine a fine of Rs. 1,000/- with default clause; as well as for setting aside the judgment dated 20.08.2018, whereby the appeal filed by the petitioner was dismissed by the lower appellate Court.

Brief facts of the case are that on 25.06.2011, complainant Om Parkash his brother Mahipal and Dayaram for the partition of their property, to which, petitioner Mahipal caused injuries to his brother/complainant Om Parkash with a spade, which he was holding in his hand. On hearing the noise, complainant's mother Rewati came at the spot and rescued him. The entire incident took place on the fields of the parties. The complainant was taken to hospital and the case was registered against the accused.

Learned counsel for the petitioner has argued that the petitioner is now aged about 52 years and the occurrence is related to the year 2011. It is further submitted that the complainant is the real brother of the petitioner and now the good sense prevails between the parties and there is no complaint that after 2011, the petitioner has ever misused the concession of bail pending trial or during suspension of his sentence when the appeal was pending before the lower appellate Court or during the pendency of the present revision before this Court.

Learned counsel for the petitioner has relied upon a judgment of this Court rendered in *Umed Singh and others vs. Azad Singh another*, **CRR-2734-2015**, decided on 04.04.2019, wherein in similar circumstances, a person, who was convicted under Sections 323, 325 of the IPC, was granted the concession of probation in view of Section 12 of the Probation of Offenders Act, 1958.

Learned counsel for the petitioner further submitted that since the complainant is the real brother of the petitioner, the petitioner is ready to pay him a sum of Rs. 25,000/- towards his medical expenses by way of a demand draft.

Learned State counsel has filed the custody certificate, as per which, the petitioner is not involved in any other case and he has undergone actual sentence of 01 month and 02 days out of total sentence of 06 months.

After hearing learned counsel for the parties and going through the impugned judgments passed by the Courts below, this petition is ***partly allowed*** while upholding the judgment of conviction passed by the trial Court and affirmed by the lower appellate Court, however, the order of sentence is modified to the extent that the petitioner is released on probation

of good conduct for a period of 06 months, on furnishing probation bond to the tune of Rs. 30,000/- with one surety of like amount.

This will be subject to a condition that the petitioner will hand over a demand draft of Rs. 30,000/- to complainant Om Parkash towards his medical expenses, within a period of 30 days from today.

16.11.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No