

241

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-2446-2019 (O&M)****DATE OF DECISION: 25.07.2023****Joginder Singh****...Petitioner****Versus****Balwinder Singh and another****...Respondents****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. H. K. Aurora, Advocate,
For the petitioner.

None for respondents No.1 and 2.

Ms. Guramrit Kaur, DAG, Punjab for respondent No.3.

ARUN MONGA, J. (ORAL)

Instant criminal revision petition has been filed by complainant against judgment dated 27.04.2018 passed by learned Additional Sessions Judge, Hoshiarpur, vide which judgment of conviction dated 03.04.2017 passed by learned Judicial Magistrate 1st Class, Hoshiarpur was though upheld but sentence of rigorous imprisonment for two years awarded to respondents No.1 and 2 was modified and they were directed to be released on probation of good conduct for a period of one year with one surety in the like amount while imposing meager costs of Rs.5000/- each to be paid by respondents No.1 and 2 to complainant/petitioner herein.

2. Succinct facts first.

2.1 Petitioner filed complaint against respondents No.1 and 2/accused under Sections 323, 324, 325, 326, 452, 148 read with Section 149 IPC before learned trial Court alleging therein that on 12.09.2010 at about 7:30 p.m when he was sleeping in his house, accused with an intention to kill him forcibly trespassed into his house by scaling walls and started giving him beatings and abuses with intention to take its forcible possession. Harvel Singh raised *lalkara*

to teach him a lesson whereas Balwinder Singh gave *Kirch* (sharp edged weapon like knife) blow which hit little finger of his left hand. Ram Ji Lal gave *daatar* blow which hit on his left leg below the knee. Other persons gave him fist and kick blows. They after inflicting him injuries left the spot. The motive behind this incident was an earlier civil dispute regarding one plot between the parties.

2.2. Learned trial Court after appreciating the evidence on record, held both the accused/respondents No.1 and 2 herein guilty for the offence punishable under Sections 452 and 324 read with Section 34 of IPC and convicted them to undergo rigorous imprisonment for two years for each offence.

2.3. Learned Sessions Court in appeal though upheld the findings of learned trial Court with regard to conviction of respondents No.1 and 2 but modified the sentence and ordered to release both the accused on probation of good conduct for a period of one year on furnishing probation bonds in the sum of Rs.25,000/- with one surety in the like amount. That apart, learned Sessions Court burdened both the accused with costs of Rs.5,000/- payable to complainant as compensation.

2.4. Aggrieved against the modification of sentence awarded to accused and imposition of a meager amount of Rs.5,000/- each as compensation, complainant is before this Court in revision.

3. Learned counsel for the petitioner/complainant submits that petitioner had filed a complaint against the respondents. He suffered two injuries with sharp edged weapons in the occurrence. The findings of conviction recorded by learned trial Court were rightly upheld by learned appellate Court. However, learned Appellate Court erred in showing undue compassion in releasing respondents No.1 and 2 on probation of good conduct. Further urges that petitioner has suffered a lot of mental and financial harassment while pursuing criminal proceedings for the past 13 years now. He would further

submit that a meager amount of compensation @ Rs.5000/- each has been ordered to be paid to petitioner whereas a heavy amount of compensation at least Rupees One lakh each ought to have been ordered. He further contends that both petitioner and respondents are real brothers and civil dispute is already pending between them. He further contends that offence committed by respondents is serious in nature and hence, learned appellate Court erred in modifying the sentence.

4. There is no representation on behalf of respondents No.1 and 2.

5. I have heard learned counsels for parties and have gone through the records.

6. The statutory provisions of Section 360 Cr.P.C. and Probation of Offenders Act, 1958 very emphatically lay down the reformatory and correctional object of sentencing and obligates the trial courts as well as appellate courts to give benefit of probation in fit cases as provided under law. Unfortunately, this branch of law has not been much utilized by the trial courts. It becomes more relevant and important in our system of administration of justice where trial is often concluded after a long time and by the time decision attains finality, the very purpose of sentencing loses its efficacy as with the passage of time the penological and social priorities change and there remains no need to inflict punishment of imprisonment, particularly when the offence involved is not serious and there is no criminal antecedent of the accused person. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant factors which would enter into the arena of consideration. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed.

7. In the instant case, respondents No.1 and 2 were rightly convicted under Sections 324 and 452 IPC. Since dispute is between real brothers and respondents No.1 and 2 have already suffered protracted agony of trial for 13 long years. They are not previous convicts and have clean antecedents; respondent No.2 Ramji Lal is a hexagenerian and a known heart patient while respondent No.1 Balwinder Singh is now aged 50 years; injuries suffered by petitioner/complainant though caused by sharp weapon were not serious and caused on little finger of left hand and left leg below knee, learned Appellate Court has rightly taken into consideration the fact that in case the convicts were released on probation, that shall afford an opportunity to parties to live peacefully. I am of the view that learned appellate Court has rightly modified the order of sentence and released respondents No.1 and 2 on probation of good conduct for a period of one year by imposing conditions including imposition of costs of Rs.5,000/- payable as compensation to petitioner herein. The conditions imposed on the convicts by learned Appellate Court seem to be just, reasonable and in accordance with law given the status of the parties and the attending circumstances. Even the period of probation of one year ordered by learned Appellate Court has also expired on 27.04.2019. During that period, respondents No.1 and 2 have not committed any offence.

8. In view of above, no ground for interference by this Court is made out.

9. Dismissed.

10. Pending application(s), if any, shall also stand disposed of.

JULY 25, 2023
Shalini

(ARUN MONGA)
JUDGE

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