

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

240 CRR-1164-2019 (O&M)
Date of Decision: 4th October, 2023

Sanjeev @ Sanju ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vishwajeet, Advocate for the petitioner

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

CRM-15949-2019

1. This is an application for condonation of delay of 20 days in filing the revision petition.

2. For the reasons recorded in the application, the same is allowed and delay of 20 days in filing the petition is condoned.

Main case

3. This revision petition is filed aggrieved of order of Appellate Court releasing the accused-respondents No. 2 to 4 (hereinafter referred to as 'the respondents') on probation.

4. Brief facts are that FIR No. 153 dated 29.10.2010 was registered by Sanju @ Sanjeev. It was alleged that on 26.10.2010 Vinod, Chander Bhan and Karma armed with *gandasi*, *lathi* and axe respectively caused injuries to the complainant and his family members.

They were referred to Government Hospital by Community Health

452, 323 and 325 read with Section 34 IPC, 1860. Vide judgment dated 23.12.2014 sentenced to undergo as under:-

Sections	Sentence
323/34 IPC	To undergo rigorous imprisonment for a period of six months along with a fine of Rs.500/- and simple imprisonment for one month in default of payment of fine each.
325/34 IPC	To undergo rigorous imprisonment for a period of two years along with a fine of Rs.500/- and simple imprisonment for two months in default of payment of fine each .
452/34 IPC	To undergo rigorous imprisonment for a period of two years along with a fine of Rs.500/- and simple imprisonment for two months in default of payment of fine each.

5. Aggrieved of the conviction and quantum of sentence, the appeal was preferred. The appellate Court vide judgment dated 29.11.2018 upheld the conviction. So far as quantum of sentence was concerned, the respondents were ordered to be released on probation subject to payment of compensation of rupees thirty thousand by each of the respondent to the injured and on furnishing of requisite bonds.

6. Learned counsel for the petitioner submits that the appellate Court erred in releasing the respondents on probation. The contention is that injuries received by Santosh, Sanjeev and Arun were duly proved by deposition of PW-6 Dr. Sanjeev Goyal. Further that Arun and Sanjeev suffered fracture.

7. The contention of the petitioner is noted to be rejected.

8. The Supreme Court in **Chandreshwar Sharma v. State of Bihar, (2000) 9 SCC 245**, while considering such mandate, held as under:

“3. The appellant herein was convicted under Sections 379 and 411 IPC and was sentenced to rigorous imprisonment for one year as 3.5 Kg. of non-ferrous metal was recovered from his possession. On an appeal being filed, the conviction under Section 379 was affirmed. The appellant carried the matter in revision, but the revision also stood dismissed. All along the case of the appellant was that the recovery from the tiffin carrier kept on the cycle would not tantamount to recovery from the possession of the appellant, and this contention has been negated and rightly so. When the matter was listed before this Court, a limited notice was issued as to why the provisions of Section 360 of the Criminal Procedure Code should not be made applicable Pursuance to the said notice, Mr. Singh, the learned standing counsel for the State of Bihar has entered appearance. From the perusal of the judgment of the learned Magistrate as well as the Court of Appeal, and that of the High Court, it transpires that none of the forums below had considered the question of applicability of Section 360 of the CrPC. Section 361 and Section 360 of the Code on being read together would indicate that in any case where the Court could have dealt with an accused under Section 360 of the Code, and yet does not want to grant the benefit of the said provision then it shall record in its judgment the specific reasons for not having done so. This has apparently not been done, inasmuch as the Court overlooked the provisions of Sections 360 and 361 of the CrPC. As such, the mandatory duty cast on the Magistrate has not been performed. Looking to the facts and circumstances of the present case, we see no reasons not to apply the provisions of Section 360 of the CrPC. We accordingly, while maintain the conviction of the appellant, direct that he will be dealt with under Section 360 and as such, we direct that the appellant be released on probation of good conduct instead of sentencing him, and he should

enter into a bond with one surety to appear and receive the sentence when called upon during the period of one year for the purpose in question. The bond for a year shall be executed before the learned Chief Judicial Magistrate, Ranchi, within 3 weeks from today. The appeal is disposed of accordingly.”

9. The scope of interference in revision is limited. Supreme Court in ***New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey, 2020(1) Ori. Law Rev. 246*** held as under:-

“8. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under Section 397 Cr.P.C., 1973 is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior Court. The revisional Court is entitled to look into the regularity of any proceeding before an inferior Court. As reiterated by this Court in a number of cases, the purpose of this revisionsal power is to set right a patent defect or an error of jurisdiction or law.”

10. The appellate Court while releasing the respondents on probation considered that Chander Bhan was eighty years old and suffering from many ailments, Vinod had small children. Further, they were neither previously convicted nor committed any criminal act during the pendency of the trial. Even now there are no allegations that they have not mended their ways. In other words, the steps for reformation of accused were successful.

11. The conclusion arrived at by the Appellate Court suffers from no factual or legal error and it was in consonance with the provisions of the Probation of Offender Act, 1958.

12. No ground is made for interference in the impugned judgment.

13. The revision petition is dismissed.
14. Since the main case has been dismissed the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

4th October, 2023
anuradha

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