

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRR No.1006 of 2007

Sahab Singh
... Petitioner
Versus
State of Haryana
... Respondent

2. CRR No.1012 of 2007

Ved Pal & another
... Petitioners
Versus
State of Haryana
... Respondent

Date of decision: 10th February, 2023

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Tanvir S. Grewal, Advocate for the petitioners.
(Amicus Curiae in CRR-1012-2017).
Mr. Chetan Sharma, Assistant Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

Both the instant revision petitions have been filed to impugn the judgment of conviction dated 05.12.2005 and order of sentence dated 08.12.2005 passed by Judicial Magistrate 1st Class, Panipat vide which the petitioners were convicted under Sections 323, 332, 353 IPC and were sentenced as under:

Offence	Period of sentence	Fine	Period of sentence in default of payment of fine
u/s 323 IPC	RI for 6 months	₹ 500/-	SI for 15 days

u/s 332 IPC	RI for 1 year	₹ 500/-	SI for 15 days
u/s 353 IPC	RI for 6 months	₹ 500/-	SI for 15 days

All the sentences were ordered to be run concurrently.

The appeals preferred against the impugned judgment and order of sentence were dismissed by learned Addl. Sessions Judge, Panipat vide judgment dated 24.05.2007. Hence the present revision petitions.

The case set up by prosecution may be noticed as thus:

The complainant Gurpal Singh purchased agricultural land measuring 42 acres from Kachroli Garden Society along with one Kuldeep Singh in the year 1993 and since then they both were in possession of the said land. In the year 1993, the villagers of village Kachroli raised a dispute qua the aforesaid land on the pretext that the Society had no right over the same and it belonged to the Gram Panchayat. Due to the said dispute, a Calandra was prepared by police under Section 145 Cr.P.C. and after adjudicating upon the same, the SDM vide its order dated 30.10.1995, after holding complainant and Kuldeep Singh as owners in possession of the land, decided the matter in their favour. When the complainant on 12.11.1995 reached the land in question for ploughing along with tractors and police officials, 10-15 boys and 10-15 ladies of the village, armed with lathis and iron rods, came to the spot and prevented the tractors from ploughing the said land and further damaged the tractors with lathi and iron rod blows. The complainant and one Jagdish received injuries at the hands of

Sahab Singh, Roshan Lal, Ved Pal and Pratap. Due to the hue and cry raised by the aforesaid injured persons, the police officials rushed to the spot and saved them from the accused. In the scuffle, the police officials too received injuries. The accused further threatened the complainant of dire consequences if they dared to enter the land in dispute in future.

The prosecution, in support of its case, examined 4 witnesses including the injured police officials. On the basis of evidence led and other material on record, the trial Court convicted the petitioners under Sections 323, 332, 353 IPC vide judgment dated 05.12.2005. The appeal preferred to impugn the aforesaid judgment was also dismissed by the appellate Court vide judgment dated 24.05.2007. Hence, the instant revision petitions.

Learned Amicus Curiae appearing for the petitioners, at the outset, submits that he does not want to challenge the well reasoned findings recorded by the trial Court, on merits and would thus, confine his prayer only on the quantum of sentence. He submits that incident pertains to the year 1995 and since one of the petitioners i.e. Sahab Singh is a government employee, a lenient view be taken and they be released on probation.

Learned State counsel has opposed the prayer and submissions made by the learned counsel for the petitioners.

I have heard learned counsel for the parties and perused the relevant material on record.

In view of the prayer made by learned amicus curiae for the petitioners for releasing them on probation, it would be apposite to point out here that the incident in question pertains to November, 1995 and ever since then the petitioners have been facing long and protracted criminal proceedings for more than 27 years. It is not disputed by the State counsel that after the incident in question, the petitioners have not been involved in any other criminal case and as conceded by the State counsel, they have also not misused the concession of bail granted to them during all these preceding years. Further, petitioner Sahab Singh being a government employee would indeed be deprived of his pensionary and other service benefits due to his conviction in the present case.

In the aforesaid facts and circumstances, this Court does not deem it appropriate to send the petitioners behind bars at this juncture. It cannot be overlooked that the ultimate goal of punishment in a modern civilized society is to attempt reformation of the offender. It may not always be necessary in each and every case to incarcerate the offender where he/she has had an opportunity to repent for his/her wrongs.

Hon'ble Supreme Court in *Ved Prakash vs. State of Haryana, 1981(1) SCC 447* has also observed that “it is the duty of the sentencing Court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitating slant.” It was further observed by the Apex Court “even if the Bar does not help, the Bench

must fulfil the humanising mission of sentencing implicit in such enactments as the Probation of Offenders Act.

Hon'ble Supreme Court in “**Paul George vs. State of NCT, Delhi**”, 2008(2) RCR (CrI.) 478 in the similar facts and circumstances while releasing the accused on probation observed as under:

“9. This litigation has been going on for the last 20 years and has been fought tenaciously through various courts, we are also told that the appellant who has had a good career throughout but for this one aberration has since been dismissed from service on account of his conviction. We, therefore, while dismissing the appeal, feel that the ends of justice would be met if we direct that the appellant be released on probation under Section 4 of the Probation of Offenders Act, 1958 on conditions to be imposed by the Trial Court. The appeal is disposed of in the above terms.”

As an upshot to the above, this Court is of the opinion that ends of justice would be served if instead of sending the petitioners, who have not been involved in any other criminal case after the incident in question, behind bars at this stage to serve the remaining part of sentence, they are released on probation.

Accordingly, both the revision petitions stand disposed of. While upholding the conviction of the petitioners, they are ordered to be released on probation for a period of two years on their entering into

a bond in the sum of ₹ 25,000/- each with one surety of like amount each, to the satisfaction of CJM, Panipat with undertakings that they shall keep peace and maintain good conduct.

(MANJARI NEHRU KAUL)
JUDGE

February 10, 2023
rps

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