

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3007-2009 (O&M)

Date of Decision: 22.05.2023

Lachman and ors.

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. H.S.Baath, Advocate, for the petitioner.

Mr. Gaurav Bansal, DAG Haryana.

HARKESH MANUJA, J.(ORAL)

1. By way of present revision petition challenge has been laid to the judgment dated 12.11.2009 passed by the Session Judge, Jhajjar vide which judgment dated 08.12.2008 passed by JMIC, Bahadurgarh, convicting the petitioners under Sections 323/34, 324/34 and 325/34 IPC has been upheld.
2. Briefly stating, facts of the case are that due to a civil dispute petitioners attacked complainant and his family and a complaint against petitioners was filed followed by registration of FIR in question recorded under Sections 148, 149, 323, 324, 452, 436, 435 IPC. Subsequently, petitioners were put to trial and JMIC, Bahadurgarh vide judgment dated 08.12.2008 held them guilty and vide order of sentence dated 09.12.2008, each of them were sentenced as under :-

<i>Offence u/s</i>	<i>Sentence</i>	<i>Fine</i>
323/34	SI for Three months	250/-

324/34	SI for six months	250/-
325/34	SI for one year	500/-

In default of payment of fine, each accused was directed to further undergo SI for one month. All the sentences of imprisonment were ordered to run concurrently.

3. Aggrieved thereof, the petitioners filed appeal before the Sessions Judge, Jhajjar, but the same was also dismissed vide judgment dated 12.11.2009. Their prayer for releasing the petitioners on probation was also rejected as they were not ready to compensate the complainant party.

4. By way of present revision petition, both the aforesaid orders have been impugned.

5. Learned counsel for the petitioner rather than pressing the petition on merit, submits that the petitioners are first time offenders, having no other case against them and thus prays for grant of benefit of probation. He further submits that the petitioners are ready to pay compensation to the tune of Rs. 60,000/- to the complainant towards the injuries suffered.

6. On the other hand, learned State counsel has opposed the aforesaid prayer, though admits the factual position that petitioners are first time offenders and have not been involved in any other case.

7. I have heard learned counsel for the parties and gone through the paper-book of the case. Considering the facts and circumstances of the present case, in my considered opinion, it is a fit case to release the petitioners on probation as there is no counter to the factual position that they are first time offender. Further, they have not been found to be involved in any other case since the time of registration of the FIR in

question i.e. 2001. Even the sentence of the petitioners was suspended vide order dated 17.11.2009 and about 14 years have passed since then. Therefore, the petitioners satisfy the conditions specified under Section 360 of Cr.P.C. for the purpose of releasing a convict (with reference to a male person above 21 years of age) on probation, as all the offences in which they have been convicted are punishable with imprisonment for a term of seven years or less and no previous conviction is proved against them as well. Additionally they have also undergone sentence for a period of 29 days in this case.

8. Further, in view of the mandate of Section 361 Cr.P.C. as well as the various authorities of this Court, assigning special reasons by the court is mandatory while not granting the benefit of the probation in case of first offender. Though, learned trial Court did not consider this aspect, however, learned appellate Court while considering the same, rejected the prayer in this regard by assigning the reason that accused/ petitioners were not ready to compensate the complainant, however at this point of time, petitioners have voluntarily offered to compensate the petitioners.

8. Accordingly, petitioners are ordered to be granted the benefit of probation under Section 360 Cr.P.C. subject to furnishing probation bond in the sum of Rs. 10,000/- each for a period of 06 months, with an undertaking to appear and receive the sentence as and when called upon during the period of 06 months, and in the meantime to keep peace and be of good behavior, besides depositing a sum of Rs.60000/- towards compensation before the trial Court to be released in favour of complainant upon proper verification after putting him to notice.

9. Revision petition is disposed of accordingly.

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

22.05.2023
sanjay

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No