

CRR-4447-2015 (O & M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4447-2015 (O & M)
Date of decision:02.05.2023

Dev Priya

..... Petitioner

V/s

Anil Kumar and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Tanmoy Gupta, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for respondent No.4.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition is for setting aside the order dated 04.09.2015 passed by the Additional Sessions Judge, Palwal whereby while upholding the judgment of conviction passed by the Judicial Magistrate Ist Class, Palwal, dated 26/27.02.2015, the accused-respodents No.1 to 3 have been ordered to be released on probation.

The brief facts of the case are that four persons i.e. respondents No.1 to 3, namely, Anil Kumar son of Jumma Khan, Arman Khan son of Jumma Khan, Vinod son of Jumma Khan and accused No.4-Jumma Khan (since deceased) were convicted in FIR No.460 dated 18.11.2010 under

CRR-4447-2015 (O & M)

::2::

Sections 323, 325, 506 read with Section 34 IPC registered at Police Station Sadar Plawal and sentenced as under:-

Name of accused	Offence	Rigorous imprisonment
Anil, Armaan, Vinod and Jumma	323 IPC r/w 34 IPC	To undergo rigorous imprisonment for 06 months and to pay fine of Rs.200/- each and in default of the payment of fine, to undergo rigorous imprisonment for 15 days.
	325 IPC r/w 34 IPC	To undergo rigorous imprisonment for 02 years and to pay fine of Rs.1,000/- each and in default of the payment of fine, to undergo rigorous imprisonment for 02 months.
	506 IPC r/w 34 IPC	To undergo rigorous imprisonment for 06 months and to pay fine of Rs.200/- each and in default of the payment of fine, to undergo rigorous imprisonment for 15 days.

All the sentences were ordered to run concurrently.

2. In an appeal filed by the aforementioned accused, vide judgment dated 04.09.2015, the Additional Sessions Judge, Palwal, upheld the conviction but released them on probation for a period of one year on furnishing requisite probation bonds in the sum of Rs.50,000/- each with one surety in the like amount with an undertaking to maintain peace and good behaviour for a period of the next one year and to receive sentence as and when called upon during the said period of one year in case they violated any of the conditions of probation. They were further burdened with payment of Rs.10,000/- each totalling Rs.30,000/- as compensation to be paid to the complainant/injured-Dev Priya by 08.09.2015. The amount of fine Rs.1400/- each already deposited by the accused in the Trial Court was

CRR-4447-2015 (O & M)

::3::

3. Against the aforementioned judgment, the complainant-Dev Priya has preferred the present revision petition (CRR-4447-2015) challenging the granting of probation to the respondent Nos.1 to 3 and seeking enhancement of sentence including sentence of imprisonment to be awarded as well as enhancement in the compensation amount.

4. The learned counsel for the petitioner contends that the Additional Sessions Judge, Palwal has wrongly released the respondents No.1 to 3 on probation despite the fact that they assaulted the complainant party and caused injuries. Further, a meagre amount on account of compensation has been awarded to the petitioner-complainant. Therefore, their sentence ought to be enhanced from the grant of probation to the awarding of sentence of imprisonment.

5. The learned counsel for the State has supported the case of the petitioner contending that the sentence of respondent Nos.1 to 3 be enhanced from the grant of probation to the awarding of sentence of imprisonment.

6. I have heard the learned counsel for the parties.

7. This Court in **Rajinder Singh Versus State of Haryana & others passed in CRM-M-249-2013 dated 27.08.2018**, held as under:-

“The judgment of the learned Additional Sessions Judge, Kaithal is dated 27.10.2012, thus, respondent No.2 and 3 have already undergone sentence of probation imposed upon them and, therefore, no reason arises for me to go into the legality or propriety of the impugned judgment.

The present petition stands disposed of as having been rendered infructuous.”

CRR-4447-2015 (O & M)

::4::

8. In the present case, the judgment of the learned Additional Sessions Judge, Palwal is dated 04.09.2015 and therefore, the respondent Nos.1 to 3 have already undergone the sentence of probation imposed upon them. Therefore, there is no requirement for this Court to go into the legality or propriety of the impugned judgment.

9. In view of the above, the present petition is disposed of as having been rendered infructuous.

(JASJIT SINGH BEDI)
JUDGE

May 02, 2023
sukhpreet

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