

(236) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-787-2014 (O & M)
Date of Decision: 11.01.2023

Sanjay
... Petitioner

Versus

Sumer Singh and ors.
...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Tanvir S. Grewal, Advocate,
for the petitioner.

Mr. Vinod Ghai, Sr. Advocate,
with Mr. J.S. Mehndiratta, Advocate,
for respondents No.1 to 5.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The brief facts of the case are that five persons namely, Sumer Singh (respondent No.1), Balli @ Balwan (respondent No.2), Bahadur Singh (respondent No.3), Baljeet Singh (respondent No.4) and Pirthi Singh (respondent No.5) were convicted in FIR No.231 dated 25.08.2022 under Sections 323, 325, 147, 148 and 149 IPC at Police Station Sadar, Hansi and sentenced as under:-

Name of accused	Offence	Rigorous imprisonment
Surmer Singh son of Lal Chand, Balli @ Balwan son of Lal Chand, Bahadur Singh son of Fateh Singh, Baljeet Singh son of Dariya Singh and Pirthi Singh son of Hari Singh	323/149 IPC	To undergo rigorous imprisonment for six months and to pay fine of Rs.1000/- each and in default of the payment of fine, to undergo rigorous imprisonment for 15 days.

	325/149 IPC	To undergo rigorous imprisonment for 03 years and to pay fine of Rs.7000/- each and in default of the payment of fine, to undergo rigorous imprisonment for one month.
	147 IPC	To undergo rigorous imprisonment for 01 year and to pay fine of Rs.4000/- each and in default of the payment of fine, to undergo rigorous imprisonment for 15 days.
	148 IPC	To undergo rigorous imprisonment for 01 year and to pay fine of Rs.4000/- each and in default of the payment of fine, to undergo rigorous imprisonment for 15 days.

2. In an appeal filed by the aforementioned accused, vide judgment dated 21.12.2013 the Additional Sessions Judge, Hisar upheld the conviction but released them on probation for a period of one year on furnishing requisite bonds in the sum of Rs.20,000/- each with one surety each in the like amount with an undertaking to maintain peace and good behaviour for a period of one years 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 also directed to deposit a sum of Rs.40,000/- as compensation to injured Sanjay, a sum of Rs.40,000/- was to be paid to injured Prithvi Singh and Rs.20,000/- was to be paid to injured Kela Devi as compensation on account of injuries suffered by them at the hands of accused-appellants in the occurrence in question. A sum of Rs.5000/- was also imposed upon the appellants as costs of proceedings. It was further directed that the amount of fine already paid by the accused-appellants before the Trial Court ie Rs.80,000/- in total would be adjusted towards compensation and costs of proceedings as mentioned above. The balance amount of Rs.25,000/-

i.e. Rs.5000/- each alongwith the requisite probation bonds was to be furnished by the accused-appellants before the Trial Court within a period of one month from the date of judgment dated 21.12.2013.

3. Against the aforementioned judgment, the complainant-Sanjay preferred this revision petition challenging the granting of probation to respondent Nos1 to 5 and seeking enhancement of sentence including sentence of imprisonment to be awarded.

4. The learned counsel for the petitioner submits that in the present case three persons, namely, Kela Devi suffered injury on her head, Prithvi Singh suffered injuries on his right eye, right forehead, head and chest and the petitioner himself suffered injuries on his right eye, right forehead and head. He submits that the Appellate Court did not appreciate the evidence on record. Besides, the Trial Court also erred in holding that the accused were facing trial for more than 11 years and sole bread earners of the families. He also submits that the complainant-party also faced the agony of the Trial which was based on false story of the accused for almost the same period. He further submits that the cross version of respondents No.1 to 5/accused was found to be incorrect and the complainant side was acquitted rightly by the Courts. Therefore, the respondents were not entitled for the grant of benefit of probation.

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

6. On the other hand, the learned counsel for respondent Nos.1 to 5 has placed reliance on the judgments of this Court in **Rajinder Singh Versus**

State of Haryana & others passed in CRM-M-249-2013 dated 27.08.2018 to contend that once the probation period is over the present petition has been rendered infructuous.

7. I have heard the learned counsel for the parties at length.

8. 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.”

9. In the present case, the judgment of the Additional Sessions Judge, Hisar is dated 21.12.2013 and therefore, the respondent Nos.1 to 5 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.

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

(JASJIT SINGH BEDI)
JUDGE

11.01.2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No