

218 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-4924-2016 (O&M)
Decided on : 17.02.2023

Gurmeet Singh

..... Petitioner

Versus

State of Punjab & others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Dheeraj Mahajan, Advocate
 for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab.

Mr. J.S.Dadwal, Advocate
for respondents No.2 to 4.

Manjari Nehru Kaul, J.(Oral)

CRM-41078-2016

Application is allowed as prayed for and delay of 21 days in
filing the appeal is condoned.

Main case

The instant revision petition has been preferred against the
judgment dated 10.08.2016 passed by Addl. Sessions Judge, Ludhiana
whereby the judgment of conviction and order of sentence dated 20.02.2014
passed by JMIC, Ludhiana, was partly allowed and conviction of
respondents No.2 to 4 under Sections 452 and 506 IPC was set aside and
they were ordered to be released on probation.

The trial Court vide judgment and order dated 20.02.2014
convicted the accused under Sections 323/452/506 r/w 34 IPC and

sentenced as under:

<i>Sr. No.</i>	<i>Under Section</i>	<i>Imprisonment</i>
1	323 r/w 34 IPC	Simple imprisonment for six months
2	452 r/w 34 IPC	Simple imprisonment for six months
3	506 r/w 34 IPC	Simple imprisonment for six months

The prosecution case was set in motion on the statement of injured-complainant Gurmeet Singh wherein he stated that on 04.06.2009 at about 7.45 am, while he was in his house, accused Jagjit Singh armed with an iron rod trespassed into his house along with co-accused Tharanjit Singh and started abusing him. When the mother of injured-complainant intervened, accused Jagjit Singh gave a rod blow on the head of the complainant. Accused Tharanjit Singh inflicted a dang blow on the left eye of the complainant as a result of which he fell down. Accused Sukhmani Singh, who too was accompanying the co-accused, inflicted a blow on the abdomen of the complainant. The accused persons did not spare the mother and sister of the injured and beat them up also. A hue and cry was raised by the mother and sister of the injured-complainant, however, the accused fled away from the spot alongwith their respective weapons. The injured was thereafter removed to the hospital where he was medico-legally examined.

The prosecution in support of its case examined as many as 04 witnesses including the complainant as PW-1, eye-witnesses Swaran Kaur and Gurdeep Kaur and Dr.Gurbinder Kaur as PW-4. On the basis of the evidence led and other material on record, the trial Court convicted the accused under Sections 323/450/506 r/w 34 IPC vide judgment dated 20.02.2014. The appeal preferred to impugn the aforesaid judgment was

partly allowed by the Appellate Court vide judgment dated 10.08.2016 and respondents No.2 to 4 were acquitted of the charges under Sections 452 and 506 IPC. Hence, the present revision petition.

Learned counsel for the petitioner submitted that the Lower Appellate Court while partly allowing the appeal preferred by respondents No.2 to 4 erred in misreading the evidence. While inviting the attention of this Court to the judgment passed by the trial Court, learned counsel submitted that though it stood proved by way of cogent evidence that respondents No.2 to 4 had trespassed into the house of the petitioner-injured, however, the Lower Appellate Court had erred in ordering the release of respondents No.2 to 4 on probation by ignoring the gravity of the offences committed by them. It was further submitted that the Appellate Court had further erred in not awarding any compensation to the petitioner, who had admittedly received injuries at the hands of respondents No.2 to 4.

Learned counsel for respondents No.2 to 4 while controverting the submissions made by counsel opposite contended that the findings recorded by the Appellate Court were in consonance with the evidence led by the parties and therefore, no interference was warranted by this Court.

Learned counsel further submitted that the Appellate Court had not erred in ordering the release of respondents No.2 to 4 on probation by taking into account that they were first time offenders and the parties were residing in the same neighbourhood.

Heard learned counsel for the parties and perused the judgment dated 20.02.2014 passed by the trial Court as well as the judgment dated 10.08.2016 passed by the Appellate Court.

A perusal of the impugned judgment reveals that PW-2 Swaran Kaur, alleged eyewitness, during her cross-examination categorically stated that respondents No.2 to 4 had indulged in abusive behaviour while standing outside their house. Not only this, PW-2 Swaran Kaur also categorically deposed that none of the accused-respondent had entered inside the house. Similarly, PW-3 Gurdeep Kaur, also an eyewitness to the occurrence in question, during her cross-examination deposed that the respondent were present near the gate of their house. Thus, it is evident that the ingredients to attract the mischief of Section 452 r/w 34 IPC were clearly amiss in the case in hand as the factum of the accused trespassing into the house of the injured-complainant stood not proved. Moreover, in the absence of any specific attribution to the respondent-accused of extending any threat much less of intimidating the complainant, the mischief of offence under Section 506 IPC stood not proved.

The occurrence in question took place in June, 2009. Respondents No.2 to 4 have been thus, facing the agony of protracted criminal proceedings even since then. Admittedly, respondents No.2 to 4 are not involved in any other criminal case much less of similar nature and have maintained good conduct ever since their release on probation.

In the facts and circumstances, this Court thus, does not deem it appropriate to send respondents No.2 to 4 behind bars at this juncture when admittedly they have been fastened with many responsibilities in the preceding 14 years. It would be relevant to observe here 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.

This Court cannot at the same time be oblivious to the fact that the petitioner sustained injuries in the incident in question, therefore, the ends of justice would be met if the petitioner is awarded compensation to the tune of Rs.30,000/- to be paid equally by respondents No.2 to 4 within a period of two months from the date of this order, else the benefit of probation granted to them would stand revoked and they shall then undergo the remaining part of their sentence.

Accordingly, the revision petition stands disposed of.

17.02.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No