

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRR-3923-2017

Date of decision: 22.05.2023

Bhikha Ram

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sarfraj Hussain, Advocate
for the petitioner.

Mr. Munish Sharma, DAG, Haryana.

Mr. Ajit Sihag, Advocate
for respondents No.2 to 6.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner/complainant is impugning the order dated 14.08.2017 passed by learned Additional Sessions Judge, Bhiwani vide which the appeal preferred by the accused respondents No.2 to 6 against their conviction by the learned Trial Court under Section 323/324/452/148/506/149 of the IPC and sentence, was upheld. The appeal was, however, partly allowed on the point of sentence vide which the accused were released on probation of good conduct for a period of 6 months. The appeal filed by the petitioner for enhancement of sentence was also dismissed vide the same order. Besides this, accused were ordered to pay an amount of ₹20,000/- (₹4,000/- each) as compensation to the injured complainant/petitioner.

2. Learned counsel for the petitioner has vehemently argued that the Lower Appellate Court had erred in extending the concession

of probation to accused respondents No.2 to 6 without appreciating that there were allegations against them of having inflicted injuries on him as well as his wife. He has further submitted that as per allegations levelled, accused respondent No.3 Seenu caught hold of the complainant while respondent No.2 Madan Lal inflicted a brick blow on the head of the complainant. Thereafter, accused respondent No.4 Giani and respondent No.5 Girdhari assaulted him badly. Accused respondent No.6 Phoola Devi also beat up the wife of the complainant. Learned counsel appearing for the petitioner thus vehemently urged that in view of the allegations which stood proved during trial, the accused respondents No.2 to 6 should not have been given the concession of probation.

3. Learned counsel for respondents No.2 to 6 has opposed the prayer and submissions made by the counsel opposite and submitted that the orders releasing the accused on probation did not warrant any interference. He has submitted that it was a well reasoned order as not only were the parties closely related but the accused did not have any criminal antecedents. He has further submitted that even the injury which was inflicted on the petitioner was found to be simple in nature.

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

5. I do not find any infirmity in the impugned judgment vide which the conviction of the accused was upheld and the appeal was partly allowed only on the point of sentence. Admittedly, respondent No.6 Phoola Devi is none other than the real sister of the complainant whereas respondent No.5 Girdhari is the brother-in-law of the

complainant. The parties, thus, are closely related. It is also a matter of record that the injury attributed to the accused was opined to be simple in nature. It is a matter of record has not been disputed by the learned State counsel that the accused respondents No.2 to 6, do not have any criminal antecedents. They have admittedly been facing the agony of the proceedings in the present case for the last more than 12 years.

6. The object behind Section 360 of the Cr.P.C. is the reformation of a convict and a duty is cast upon the Court to give the benefit of probation in appropriate cases. The Hon'ble Supreme Court in *Ved Parkash Vs. State of Haryana 1981(1) SCC 447* has 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....”.

7. In the light of the above discussion, this Court does not find any illegality in the impugned order which would warrant interference of this Court. Accordingly, the instant revision petition being devoid of any merit is dismissed.

22.05.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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