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

CRR-206-2018
Date of Decision: 03.10.2023

HARBANS LAL

... Petitioner

Versus

STATE OF PUNJAB & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab
for respondent No.1.

Mr. Prabhjot Singh, Advocate
for respondent Nos.2 to 6.

JASJIT SINGH BEDI, J.

The brief facts of the case are that fifteen persons namely, Amrik Singh-respondent No.2 (CRR-1034-2018), Gurmit Singh-respondent No.3 (CRR-1034-2018), Sunil Kumar @ Bobby-respondent No.4 (CRR-1034-2018), Harkrishan Lal-respondent No.5 (CRR-1034-2018), Om Parkash-respondent No.6 (CRR-1034-2018), Pawan Kumar-respondent No.7 (CRR-1034-2018), Kewal Krishan-respondent No.8 (CRR-1034-2018), Surinder Singh @ Thind-respondent No.9 (CRR-1034-2018), Des Raj-respondent No.2 (CRR-322-2018), Harjinder Singh-respondent No.2 (CRR-206-2018), Binder Singh-respondent No.3 (CRR-206-2018), Balkar Chand-respondent No.4 (CRR-206-2018), Dilbagh Singh-respondent No.5 (CRR-206-2018) and Kartar Singh-respondent No.6 (CRR-206-2018) were convicted in FIR No.76 dated 26.04.2010 under Sections 452, 201, 336, 427, 148, 149 IPC and Sections 27, 54, 59 of Arms, Police Station Guruhar Sahai and sentenced as under:-

Name of accused	Offence	RI	Fine	In default of fine
Amrik Singh	452 IPC 148IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Gurmit Singh	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Sunil Kumar	452 IPC 148 IPC 336 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Des Raj	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Harjinder Singh	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Binder Singh	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Balkar Chand	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Dilbagh Singh	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Kartar Singh	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Harkrishan Lal	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Om Parkash	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Pawan Kumar	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Kewar Krishan	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
Jangir Chand	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days

Surinder Singh	452 IPC 148 IPC 336/149 IPC	1 year 8 months 6 months	Rs.500/-	10 days
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All the sentences were ordered to run concurrently.

2. Three separate appeals were preferred before the Court of Additional Sessions Judge, Ferozpur. The petitioner preferred appeal No.04 of 2016. Vide judgment dated 26.09.2017, the Additional Sessions Judge, Ferozpur disposed of all the three appeals vide a common order. While the conviction was upheld, the respondents were ordered to be released on probation on furnishing requisite bonds in the sum of Rs.50,000/- with one surety each in the like amount with an undertaking to appear and receive the sentence and when called within a period of 06 months and in the meantime to keep peace and be of good behaviour. The amount of fine of Rs.500/- each (4500/- in all) already deposited by the accused in the Trial Court was ordered to be converted into cost of litigation. Out of this amount of Rs.4500/- i.e. 500/- each deposited by these nine convicts in the Trial Court an amount of Rs.3000/- was ordered to be paid to the complainant-Harbans Lal as compensation. The convicts were to furnish requisite probation bonds within a period of 01 month.

3. Against the aforementioned judgment, the complainant-Harbans Lal preferred this revision petition challenging the granting of probation to respondent Nos.2 to 6 and seeking enhancement of sentence including sentence of imprisonment to be awarded.

4. The learned counsel for the petitioner submits that an order of probation could only have been passed after receipt of report from Probation

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Officer. He relies on the judgment of the Hon'ble Supreme Court titled as **MCD Versus State of Delhi and another, 2005(3) RCR (Criminal) 13.**

5. The learned counsel for the State has supported the case of the petitioner contending that the sentence of respondent Nos.2 to 6 be enhanced from grant of probation to the awarding of sentence of imprisonment.

6. On the other hand, the learned counsel for respondent Nos.2 to 6 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 learned Additional Sessions Judge, Ferozpur is dated 26.09.2017 and therefore, the respondent Nos.2 to 9 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.

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

(JASJIT SINGH BEDI)
JUDGE

03.10.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No