

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

252

CRM-30160-2023 in/and
CRR-1657-2023
Date of decision: 11.09.2023

Narender Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Dhiraj Chawla, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-30160-2023

For the reasons mentioned in the application, the same is allowed and delay of 66 days in filing the revision is condoned.

CRR-1657-2023

1. The petitioners are impugning the order dated 29.01.2020 passed by learned Appellate Court whereby the appeals filed by accused Mohan Lal, Phool Kumar, Manish, Leelawati, Sandhya and Balram have been partly accepted and their conviction awarded under Section 326 read with Section 149 of the IPC in case FIR No.208 dated 31.10.2016 registered at Police Station Sector 20, Panchkula by the Trial Court, has been set aside and the accused were ordered to be released on probation for a period of one year on furnishing of probation bonds and accused Balram has been acquitted of the charges.

2. The Trial Court had convicted the accused as follows:

Name of Convict	Offence(s)	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
Mohan Lal	148 read with Section 149 IPC	SI for 01 year	₹500/-	SI for 15 days
	323 read with Section 149 IPC	SI for 06 months	₹500/-	SI for 15 days
	325 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
	326 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
Phool Kumar	148 read with Section 149 IPC	SI for 01 year	₹500/-	SI for 15 days
	323 read with Section 149 IPC	SI for 06 months	₹500/-	SI for 15 days
	325 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
	326 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
Manish	148 read with Section 149 IPC	SI for 01 year	₹500/-	SI for 15 days
	323 read with Section 149 IPC	SI for 06 months	₹500/-	SI for 15 days
	325 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
	326 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
Leelawati	148 read with Section 149 IPC	SI for 01 year	₹500/-	SI for 15 days
	323 read with Section 149 IPC	SI for 06 months	₹500/-	SI for 15 days
	325 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
	326 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
Sandhya	148 read with Section 149 IPC	SI for 01 year	₹500/-	SI for 15 days
	323 read with Section 149 IPC	SI for 06 months	₹500/-	SI for 15 days
	325 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
	326 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days

Balram	148 read with Section 149 IPC	SI for 01 year	₹500/-	SI for 15 days
	323 read with Section 149 IPC	SI for 06 months	₹500/-	SI for 15 days
	325 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days
	326 read with Section 149 IPC	SI for 03 years	₹500/-	SI for 15 days

All the sentences were ordered to be run concurrently.

3. Learned counsel for the petitioners has vehemently argued that on 30.11.2016 at about 08:30 P.M., when he had come to light diyas on the occasion of Diwali in House No.125, Rajiv Colony, Sector 17, Panchkula and was returning, he burst a cracker, however, it was objected to, by accused Phool Kumar, who then went inside and returned with an iron pipe in his hand. Accused Phool Kumar was followed by his father Mohan Lal and mother Leelawati, who too were armed with sticks. While Phool Kumar inflicted an injury on the forehead of complainant Narender Kumar, Mohan Lal and his wife Leelawati, accused Sandhya and Balram slapped and gave punches, to the complainant. When the mother of the complainant rushed to his rescue, she was not spared either and was inflicted an injury leading to the amputation of her finger. On a hue and cry, uncle of the complainant Ramjeet and cousin Raju were also attracted to the spot but they too were not spared and were inflicted injuries by the accused party. Learned counsel has submitted that on the basis of evidence led, both ocular as well as medical, the Trial Court rightly recorded a finding of conviction against the accused which in turn was rightly upheld by the learned Appellate Court. However, the Appellate Court

had gravely erred in extending the benefit of probation to the Mohan Lal, Phool Kumar, Manish, Leelawati and Sandhya by ignoring the nature of injuries sustained by the complainant party. Hence, it has been prayed that the order extending the benefit of probation be set aside and respondents No.2 to 4 accused be ordered to undergo sentence of imprisonment imposed upon them.

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

5. I do not find any infirmity in the impugned order vide which the conviction of respondents No.2 to 4 was upheld and the appeal was partly allowed only on the point of sentence. Admittedly, accused respondents No.2 to 4 and the complainant are residing in the same neighbourhood and are immediate neighbours. It has not been disputed by the learned counsel for the petitioners that respondents No.2 to 4 accused have no criminal antecedents and after the registration of the case in question, they have not been involved in any other case. It needs to be observed here that the object behind Section 360 of the Cr.P.C. is the reformation of a convict and thus a duty is cast upon the Court to extend the benefit of probation to the accused 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...”. It is also worthwhile to observe that while extending the benefit of probation, the Court has ordered an amount of ₹50,000/- to be paid to each of the

CRM-30160-2023 in/and
CRR-1657-2023

injured, hence, the complainant and the injured have been duly compensated for the same.

6. As a sequel to the above, 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.

11.09.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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