

CRA-S-958-SB-2009 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(201)

CRA-S-958-SB-2009 (O&M)
Date of Decision:- 07.02.2024

KRISHAN SINGH AND ANR.

.....APPELLANTS

Versus

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Rajesh Kumar Girdhar, Advocate
for the appellant(s)

Mr. Kamalpreet Bawa, AAG, Punjab.

ALOK JAIN, J.

1. The present appeal has been filed by the appellants against the judgment dated 01.04.2009 in FIR No. 183 dated 10.12.2005 passed by the learned Additional Sessions Judge, Faridkot whereby the appellants were sentenced to undergo rigorous imprisonment for a period of 03years under Sections 324/326/147/149 of the Indian Penal Code, 1860.
2. Brief facts of the case, as per the prosecution are, that on 10.12.2005 Angrej Kaur made a statement Ex. PA before ASI Narinder Singh in G.G.S. Medical College and Hospital, Faridkot, at about 8.25 P.M., wherein she stated that on 10.12.2005 at about 11.00 A.M, she along with her son (Sukhmander Singh), her daughter (Veerpal Kaur), Gurdev

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Kaur, Gurpreet Singh, Manpreet Kaur, Parkash Kaur, Karamjit Kaur were picking up *narma* crop. Mukhtiar Singh alongwith his sons Krishan Singh, Ramji Singh, Shamsheer Singh, Angrej Singh, wife Surjit Kaur, Paramjit Kaur w/o Krishan Singh, Sandeep Kaur w/o Shamsheer Singh (accused), raising *lalkaras* came where they picking the crop. Angrej Singh and Shamsheer Singh were armed with *gandasas*. Shamsheer Singh tried to give a *gandasa* blow on the person of Sukhmander Singh and in order to save him, she (Angrej Kaur) came forward as a result of which the blow fell on her left thumb. Angrej Singh gave a *gandasa* blow on her right shoulder. Surjit Kaur after raising an alarm asked her sons to retract. The complainant was taken to the hospital. Motive behind the occurrence was that a dispute regarding 10 Kanals of land was pending between the parties in the Court at Faridkot.

3. Vide order dated 01.04.2009, the learned ASJ, Faridkot suspended the sentence of imprisonment for a period of one month and ordered the appellants to be released on bail on their furnishing personal bonds with one surety of the like amount in the sum of Rs.20,000/- to enable them to file the appeal and subsequently vide order dated 17.04.2009 this Court was pleased to suspend the sentence further, thereby, the end result being that the appellants remained on bail during the entire period of trial, till date. It is pertinent to mention here that the appellants have paid the fine imposed on them.

4. This Court vide order dated 14.09.2023 recorded the prayer of the learned counsel for the appellants, which reads as follows:

“That *it is as case of version and cross-version and both the parties stand convicted. The occurrence took place in the*

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year 2005 i.e. 18 years ago and both the parties have faced the agony of investigation, trial and even this present appeal is pending since 2009. So, without going into the merits of the case, it is respectfully prayed that the sentence of the appellants may be kindly reduced to already undergone or they may be kindly be released on probation as they are first time offenders. The fine imposed upon the appellants has already been paid.”

5. It is necessary to reproduce Section 4 of the Probation of Offenders Act, 1958:

Section 4. Power of court to release certain offenders on probation of good conduct.—

(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

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Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to impose for preventing a

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repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

6. In light of the prayer made by the learned counsel for the appellants as examined under the provision of law as reproduced above, the conviction of the appellants Krishan Singh, Shamsheer Singh, Mukhtiar Singh and Surjit Kaur is upheld. However, it is a fit case to invoke the provisions of The Probation of Offenders Act, 1958 as:

- i. The occurrence pertains to 10.12.2005, i.e., about 19 years old and the conviction was awarded on 01.04.2009 i.e., about 15 years ago and the present appeal has been pending since then.
- ii. No other case has been lodged against them during all these years;
- iii. The fact it was a version and cross version case i.e., the appellants in this case are the complainants in another case arising out of the same incident;
- iv. The Complainants in this case were also convicted in an FIR arising out of the same incident; and
- v. The fact that it was only a land dispute between the parties involved.

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7. The conviction of the appellant-Angrej Singh is also upheld and he is released on Probation under the provisions of The Probation of Offenders Act, 1958 on the following grounds:

- i. The occurrence pertains to 10.12.2005, i.e., about 19 years old and the conviction was awarded on 01.04.2009 i.e., about 15 years ago and the present appeal has been pending since then.
- ii. The fact it was a version and cross version case i.e., the appellants in this case are the complainants in another case arising out of the same incident;
- iii. The Complainants in this case were also convicted in an FIR arising out of the same incident; and
- iv. The fact that it was only a land dispute between the parties involved.

8. In light of the above, all the five appellants be released on probation on the ground of good conduct for a period of six months as the case of the appellants falls within the parameters as enshrined under Section 4 of the Probation of Offenders Act 1958, however, on the following conditions:

- i. They shall individually execute a bond for good behavior with two solvent sureties in the sum of Rs. 25,000/- which shall be executed before the trial Court within a period of one month from today.
- ii. The said bond shall remain in force for a period of six months.
- iii. They shall, subject to the conditions laid down in the Probation of Offenders Act, remain under the supervision of a Probation Officer.

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9. It is clarified that, in case, there is any breach of the aforesaid conditions, the appellants shall forthwith be taken into custody and shall have to undergo the sentence awarded to them by the trial Court.
10. In light of the above, the appeal stands disposed of.
11. Pending miscellaneous application, if any, also stands disposed of.

(ALOK JAIN)
JUDGE

07 February, 2024
Parul

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No