

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CRR-2177-2003
Date of decision: 20.01.2024

Zora Singh and others
.....Petitioners

Versus

State of Punjab
..... Respondent

CRR-2217-2003

Sukhdev Singh
.....Petitioner

Versus

State of Punjab
..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. M.L. Saggar, Senior Advocate with
Ms. Armaan Saggar, Advocate for the petitioner(s).
Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

- Both these criminal revision petitions arising out of a common judgment, are thus being decided together.
- The present revision petition has been preferred by the petitioners against judgment/ order dated 06.10.2003, passed by the Additional Sessions Judge, Ludhiana, affirming the judgment/order of conviction by trial Court on 19.09.2001, while reducing the sentence of the petitioners to one year rigorous imprisonment.
- Briefly put, the facts of the case are that the complainant-Gurminder Singh, Joint Sub Registrar wrote a letter to the Deputy Commissioner (Registrar),

Ludhiana, that on 02.09.1996, he registered a sale deed in favour of Shingara

Singh and Didar Singh, which was executed by Zone Singh, Bahadur Singh, Jabbar Singh, Amar Singh and Bachan Kaur but thereafter came to know that the vendor party had produced some other woman in place of said Bachan Kaur. On inquiry, it was discovered that she had died even before the registration of the sale deed. Thus, an FIR was registered against the accused-petitioners.

4. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-petitioners. On finding a prima facie case, charges under Sections 419/420/467/468/120-B of IPC were framed against them, to which they pleaded not guilty and claimed trial.

5. In order to bring home the guilt of the accused, the prosecution examined as many as 13 witnesses. On closure of the prosecution evidence, statements of the accused-petitioners were recorded under Section 313 Cr.P.C. They denied all the incriminating circumstances that appeared against them in the prosecution case while pleading false implication by the police. In defence, none was examined by the accused.

6. The trial Court came to the conclusion that prosecution has proved its case, and accordingly convicted and sentenced as under:

Parsin Kaur			
Offence u/s	Imprisonment	Fine	Default sentence
419 IPC	RI for one and a half years	Rs.500/-	SI three months
467 IPC	RI for three years	Rs.1000/-	SI six months
468 IPC	RI for two years	Rs.500/-	SI three months

Zora Singh, Bahadur Singh, Sukhdev Singh and Jabbar Singh			
Offence u/s	Imprisonment	Fine	Default sentence
419/120-B IPC	RI for one and a half years	Rs.500/-	SI three months
467/120-B IPC	RI for three years	Rs.1000/-	SI six months
468/120-B IPC	RI for two years	Rs.500/-	SI three months

All the sentences were ordered to run concurrently.

7. Dissatisfied by the same, appeal was filed by the accused-petitioners, which was dismissed by learned Additional Sessions Judge, Karnal, however their sentence was reduced as noticed in para No.1.

8. Hence, the present revision petitions.

9. Learned counsel at the outset submits that the petitioners gives up the challenge to press the appeal on merits and prays for extending the benefit of probation in view of the facts that they belong to the poor strata of the society and except them there is none to earn the livelihood; the incident pertains to the year 1996; first time offenders and never misused the bail granted to them.

10. Learned State counsel submits that after appreciating the evidence led by the prosecution, the trial Court has rightly convicted the accused-appellants, which has been upheld by the learned Appellate Court. Thus, he prays for the dismissal of the present revision petitions.

11. Heard the learned counsel for the parties and perused the file.

12. Evidently, PW-7 Gurminder Singh deposed of the impersonation of Bachan Kaur by accused-petitioner-Parsin Kaur along with others at the time of registration of sale deed, which stands fully corroborated from Ex PC Photographs and moreso, she even refused to give her thumb impression. Further, from the statements of other PWs, it is explicit that Bachan Kaur had died in July, 1996 i.e. before the date of execution. On going through the evidence on record, the prosecution case is found well established. Thus, the trial Court has rightly convicted the petitioners, as affirmed by the lower appellate Court, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, the conviction of the petitioners is upheld.

13. As regards the prayer for release on probation made on behalf of the petitioners is concerned, it would be apposite to make a reference to Section 4 of the Probation of Offenders Act, 1958, which reads thus:

“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: 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 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.”

14. It would be worthwhile to refer to the judgment of **Ratan Lal vs. State of Punjab**, AIR 1965 SC 444, whereby Hon’ble the Supreme Court, regarding the purpose and object of ‘The Probation of Offenders Act, 1958’ had observed and held that, “The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years, absolute discretion is given to the court to release them after admonition or on probation of good conduct, subject to the condition laid down in the appropriate provision of the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case, including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Ss. 3 and 4 of the Act.”

15. The Apex Court in **Sitaram Paswan and Anr. vs. State of Bihar**, AIR 2005 SC 3534, observed that benefit of probation can be extended at the

appellate or revisional stage as well, and held that, “For exercising the power which is discretionary, the Court has to consider circumstances of the case, the nature of the offence and the character of the offender. While considering the nature of the offence, the Court must take a realistic view of the gravity of the offence, the impact which the offence had on the victim. The benefit available to the accused under Section 4 of the Probation of Offenders Act is subject to the limitation embodied in the provisions and the word "may" clearly indicates that the discretion vests with the Court whether to release the offender in exercise of the powers under Section 3 or 4 of the Probation of Offenders Act having regard to the nature of the offence and the character of the offender and overall circumstances of the case. The powers under Section 4 of the Probation of Offenders Act vest with the Court when any person is found guilty of the offence committed, not punishable with death or imprisonment for life. This power can be exercised by the Courts while finding the person guilty and if the Court thinks that having regard to the circumstances of the case, including the nature of the offence and the character of the offender, benefit should be extended to the accused, the power can be exercised by the Court even at the appellate or revisional stage and also by this Court while hearing appeal under Article 136 of the Constitution of India.”

16. A gainful reference can be made to **Santosh Devi vs. State of Haryana**, 2010 SCC OnLine P&H 3922, wherein the accused was convicted and sentenced under Section 467, 468 and 471/420 IPC for rigorous imprisonment for three years, this Court keeping in mind that she is a middle-aged woman, having children and husband, no bad antecedents and the incident being of the year 1990, released her on probation in order to dub her as habitual offender.

17. In **Surinder Singh vs. State of Haryana**, CRR-2004-2007, decided on 16.09.2015, the accused was convicted and sentenced under Section 468 IPC, this Court considering that he was a first time offender and facing the agony of trial for 19 long years, granted the benefit under Section 360 CrPC and thereby, ordered to release him on probation.

18. Reverting to the facts of the present case as regards the prayer made on behalf of the petitioners is concerned, this Court considering the mitigating circumstances and the judgments referred to above, finds that the ends of justice would be served, if they are granted the benefit of probation of good conduct.

19. As a consequence to the above, present criminal appeal is hereby disposed of with a direction to grant probation to the petitioners for a period of one year, on the following conditions as enshrined under Section 4 of the Probation of Offenders Act, 1958:

(1) They shall execute a bond for good behaviour with two solvent sureties in a sum of Rs.10,000/- which shall be executed before the trial Court within a period of one month from today.

(2) The said bond shall be in force for a period of one year.

(3) They shall be subject to the supervision of the Probation Officer and subject to the conditions laid down in the Probation of Offenders Act.

20. It is clarified that in case there is any breach of the aforesaid conditions, the petitioners will forthwith be taken into custody and shall have to undergo the sentence awarded to him by the trial Court.

21. Photocopy of the judgment be placed on the file of the connected case.

20.01.2024
Hemant

(AMAN CHAUDHARY)
JUDGE

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