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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1805-SB-2003 (O&M)
Date of decision: 08.05.2024

Joginder Singh and another

... Appellants

Vs.

Union Territory, Chandigarh (*wrongly mentioned as State of Punjab*)

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Simran Singh, Advocate for
Mr. Ranjan Lakhanpal, Advocate
for the appellants.

Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh
assisted by Mr. Shubham Mangla, Advocate and
ASI Padam Singh.

HARPREET SINGH BRAR, J. (ORAL)

1. This appeal has been preferred against the judgment of conviction dated 27.08.2003 and the order of sentence of even date passed by learned Additional Sessions Judge, Chandigarh, in FIR No.173 dated 31.10.1997 under Sections 332, 333, 353 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station West, Chandigarh, vide which the appellants were convicted under Sections 333 & 353 read with Section 34 of IPC and sentenced to undergo rigorous



imprisonment for a period of two and half years and to pay a fine of Rs.500/- along with default mechanism.

2. Brief facts of the case are that on 31.10.1997 at about 10.30 p.m., one Bahadur Singh came to the police station and he informed that brawl took place at the house of Joginder Singh and MHC of the police station deployed Constable Rajbir Singh and Constable Khushi Ram outside his house. Joginder Singh and his brother-in-law Laddi along with one more person, who could be identified by complainant/Constable Khushi Ram, if produced before him, came there. Joginder Singh was armed with lathi and others armed with dandas came outside the house. They started abusing the complainant as to why they had come there and gave lathi blows to the complainant and Constable Rajbir Singh. Joginder Singh gave lathi blow to Constable Rajbir Singh, which hit on his left arm. Accused Laddi gave a danda blow to Constable Rajbir Singh near his ear. The complainant succeeded in escaping and he went to meet SI Hari Kumar and he stated that third accused managed to run away from the spot. It is further stated by the complainant that the accused persons obstructed them in discharging their duties and assaulted them. The accused persons threatened the complainant to teach a lesson, as one of the accused was stated to be a Clerk in the office of an Advocate. Joginder Singh, Laddi and one more accused were under the influence of liquor. After recording statement of the complainant/Constable Khushi Ram, SI Hari Kumar sent the same to Police Station West,



Chandigarh and the FIR (*supra*) was registered.

3. Learned counsel for the appellants submits that the judgment passed by learned trial Court is based on conjectures and surmises. It is further submitted that the appellants don't have any criminal antecedents and have old parents and family to look after. Learned trial Court failed to appreciate the fact that appellant No.2 Narinder Singh @ Laddi was not identified by some of the prosecution witnesses. They are facing trial for the last 27 years and therefore, learned trial Court ought to have considered the case of the appellants for releasing them on probation under Section 361 Cr.P.C read with Sections 3 & 4 of the Probation of Offenders Act, 1958.

4. *Per contra*, learned Public Prosecutor, U.T. Chandigarh supports the judgment passed by learned trial Court, while contending that the appellants had misused and abused the process of law by giving false evidence on oath before the Court and therefore, they were rightly convicted and sentenced by learned Court below.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. Sections 3 & 4 of the Probation of Offenders Act empower the Courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 & 361 of the Cr.P.C, also empower the Courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. A two Judge



Bench of the Hon'ble Supreme Court in ***Som Dutt and others Vs. State of Himachal Pradesh, (2022) 6 SCC 722*** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the Court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

7. A two Judge Bench of the Hon'ble Supreme Court in ***Lakhvir Singh Vs. State of Punjab, (2021) 2 SCC 763*** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

8. In view of the aforesaid facts and circumstances, judgment passed by learned Additional Sessions Judge, Chandigarh, convicting the appellants, is upheld, however, having regard to the fact that there are no criminal antecedents against the appellants and they have actually undergone sentence of 01 month 08 days out of total sentence of two and half years, this



Court is inclined to give them the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that they shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each with surety of the like amount and on further furnishing an undertaking to keep the peace and good behaviour for a period of one year, to the satisfaction of learned trial Court concerned. The appellants shall remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the appellants fail to comply with the said directions or commit breach of the undertaking given by them, they will be called upon to undergo the sentence imposed upon them by learned Additional Sessions Judge, Chandigarh.

9. With the aforesaid directions, instant appeal stands allowed.

10. All the pending miscellaneous application(s), if any, shall also stand disposed of.

08.05.2024

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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No