

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

250

CRM-29712-2013 in/and
CRR-1924-2013 (O&M)
Date of decision: 12.01.2024

Jagsir SinghPetitioner

Versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kunal Siag, Advocate
for the petitioner.

Mr. A.P.S. Tung, DAG, Punjab.

Mr. K.S. Brar, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-29712-2013

Prayer in the application is for condonation of delay of 548 days in filing the revision.

For the reasons mentioned in the application, the same is allowed and delay of 548 days in filing the revision is hereby condoned.

CRR-1924-2013 (O&M)

1. The petitioner is impugning the judgment dated 09.08.2011 passed by learned Additional Sessions Judge (Fast Track Court), Bathinda whereby respondent No.2-accused was granted the concession of probation and judgment dated 13.02.2010 passed by learned Principal Magistrate, Juvenile Justice Board, Bathinda.

2. Learned counsel for the petitioner has vehemently argued that the Lower Appellate Court had gravely erred in extending the

concession of probation to respondent No.2-accused without appreciating that he had committed a heinous offence under Section 377 of the IPC. He has further submitted that although respondent No.2 was convicted under Section 377 of the IPC, however, it was only on account on technical grounds that he could not be sent behind bars; the learned Juvenile Court had rightly ordered respondent No.2 to be sent to Bostal Jail, however, the Lower Appellate Court had set respondent No.2 free only on the ground that no arrangements had been made by the State Government to set up Protection Homes and, hence, respondent No.2 who was a juvenile, aged 16 years, on the date of the alleged occurrence, could not be kept in a place of safety for a long period of two years.

3. After arguing for some time, learned counsel for the petitioner has restricted his prayer to the grant of compensation only. He has submitted that the Court below had erred in turning a blind eye to the provisions of Section 357 of the Cr.P.C. and thus he would be satisfied in case his prayer for grant of adequate compensation to the victim in the sum of at least ₹1 lakh is allowed.

4. On a pointed query put to the learned State counsel as to whether there had been any misuse of the benefit of probation which had been granted to respondent No.2, he on instructions, has replied in the negative.

5. However, learned counsel for respondent No.2 has vehemently opposed the prayer and submissions made by the learned counsel for the petitioner and submitted that the order vide which respondent No.2 had been granted the benefit of probation could not be

faulted with as admittedly there was no arrangement made by the State Government to set up any Protection Home at that point of time. It has also been submitted that after respondent No.2 had been extended the benefit of probation he had been leading a disciplined and reformed life and furthermore, had never been involved in any other crime much less a crime of similar nature. He has also opposed the prayer made by the counsel for the petitioner of compensating the victim with a huge amount of ₹1 lakh. Learned counsel has submitted that even though no compensation had been ordered to be paid to the victim by the Lower Appellate Court while extending the benefit of probation to respondent No.2, however, respondent No.2 would not be able to pay such a huge sum of compensation as was being demanded by the petitioner and a compassionate view be taken.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. It has not been disputed by the learned State counsel that after respondent No.2-accused was released on probation he had been leading a disciplined life and had never been involved in any crime. This Court, thus, does not find any illegality much less perversity in the impugned order vide which respondent No.2-accused had been extended the concession of probation. However, in view of the prayer made by the learned counsel for the petitioner qua the grant of compensation, this Court deems it fit, with a view to rehabilitate the victim and after giving due regard to the prayer made by the counsel for respondent No.2 not to burden him with a huge amount of

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compensation since respondent No.2-accused belongs to the poor strata of society, this Court deems it appropriate to direct respondent No.2 to pay a compensation in the sum of ₹25,000/- to the victim within five months from today.

8. The instant revision petition is disposed of in the above terms.

12.01.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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