

2024.PHHC:170592



226

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-2616-2023
DECIDED ON: 14.11.2024**

PARAMJIT KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parduman Garg, Advocate and
Mr. Kanav Goyal, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. The present revision petition has been directed against the judgment dated 02.03.2023 passed by learned Additional Sessions Judge, Fast Track Special Court, Ludhiana, vide, whereby the judgment of conviction and order of sentence dated 06.02.2018 passed by Judicial Magistrate 1st Class, Khanna, vide which Respondents/accused namely Deepak Raj, Baldev Singh, Mandeep Singh, Manjinder Singh, Lovepreet Singh, Vishal and Aman were convicted under Sections 323 r/w 149 and 452 of IPC, 1860 and were sentenced to undergo RI for one year alongwith fine to the tune of Rs.1,000/-; in default thereof to further undergo RI for a period of 30 days for commissioning of offence under Section 323 r/w 149 of IPC; to undergo RI for two years alongwith fine to the tune of Rs.5,000/-; in default thereof to further undergo RI for a period of 60 days for commissioning of offence under Section 452 of IPC, 1860, has been modified and

the aforesaid accused persons were ordered to be released on probation on their furnishing probation bonds for a period of one year in the sum of Rs.25,000/- each with one surety in the like amount each and direction was issued to pay the compensation of Rs.15,000/ to Gurpreet Singh, Rs.5,000/- to Paramjit Singh and Rs.5,000/- to Manpreet Kaur, which is to be paid by each of the convicts.

2. The factual matrix of the case as unfolded by the prosecution in police report under Section 173 Cr.P.C. in which complainant-Gurpreet Singh son of Bharpoor Singh, resident of Anand Nagar, Gali No. 13, Ward No. 13, P.S. City Khanna, Khanna, District Ludhiana, stated that he is resident of above-said address and they are two brothers and one sister. He is the student of B.A. final year at G.P.C Public College, Mandi Gobindgarh. After finishing his exam, he is doing work of clerk of Sh. Ashwani Kumar Dhand Advocate, Court Complex, Khanna. As usual on 04.06.2013 after getting free from Court's work, he was taking rest in the room of his house. His mother Paramjit Kaur and sister Manpreet Kaur were also present at the house. At around 06:00 PM, Sonu carrying 'sword', Vasdev carrying 'dah', Mandeep Singh, Mani, Lovepreet, Vishal and Aman carrying 'sticks', climbed at the roof top of his (complainant) house and started throwing bricks into his courtyard. They all (complainant and his family members) went inside one room and locked the same. The above-said persons entered in the house through roof top. They forcibly opened the gate and entered into the room. Sonu got entered his brother Sanjeev Kumar after opening the main gate. Sonu gave sword blow on his (complainant) right arm. Sanjeev carrying 'kirch' gave blow on his left rib. Lovepreet gave stick blow on his head which fell on left side of the head. Aman, Vasdev, Mandeep and Mani carrying sticks gave stick blow which fell on his (complainant) back. His mother and sister were also beaten up.

He (complainant) fell down and they gave him some more blows. The above-said persons ran away with their respective weapons. He (complainant) came to know that the above-said persons climbed through the house of his (complainant) neighbour Gurpreet Singh with the help of wooden stair. The main ill-will was that the above-said Sonu annoyed and teased his sister Manpreet Kaur. Resultantly, they (complainant and his family members) filed complaint case against Sonu three / four months ago in Civil Court, Khanna, who by putting pressure on them (complainant and his family members) tried to insist them to withdraw the above-said complaint. Thus, on the basis of the statement made by Gurpreet Singh-complainant, HC Sukhwinder Singh conducted the initial investigation and a case under Sections 323, 324, 148, 149, 201 of IPC was registered.

3. Learned counsel for the petitioner submits that the Lower Appellate Court has wrongly released the respondents on probation considering them first time offender, despite the fact that they had given severe beatings to the complainant and his family, which is proved by the complainant by leading documentary and oral evidence.

4. Heard.

5. After reviewing the record, it is clear that respondents No. 2 to 9 except respondent No.6 have been placed on probation, in light of the fact that they are first-time offenders and belong to respectable families. Thus, it would not be in the interests of justice to put them in jail. Furthermore, it is well-established law that a first-time offender should not be placed with a hardcore criminal; instead, they should be released on probation to allow them the chance to change. Nothing in the evidence indicates that respondents No. 2 to 9 have engaged in any

additional behavior following the current incident and have already endured the hardship of a drawn-out trial for a significant amount of time.

6. The scope of revisional jurisdiction of the Courts has been discussed by Hon'ble Supreme Court in “***State of Kerala vs Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 425***” wherein it is held as under:-

“the revisional jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned Judgment of the High Court from the aforesaid stand point, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by re-appreciating the oral evidence. The High Court also committed further error in not examining several items of evidence relied upon by the Additional Sessions Judge, while confirming the conviction of the respondent. In this view of the matter the impugned Judgment of the High Court is wholly unsustainable in law and we, accordingly set aside the same. The conviction and sentence of the respondent as passed by the Magistrate and affirmed by the Additional Sessions Judge in appeal is confirmed. This appeal is allowed. Bail bonds furnished stand cancelled. The respondent must surrender to serve the sentence. In view of the order in this appeal, no further order is necessary in SLP(Criminal) No. 1466/94.

7. On perusal of the judgments passed by the first Appellate Court, this Court is of the considered view that the said judgment is based upon the proper appreciation of the evidence led by the parties.

8. In view of discussions made hereinabove, this Court does not find any merit in the present revision petition, as such the same is dismissed being devoid of any merits.

9. Dismissed.

10. However, it is made clear that in case, the compensation as awarded by the Court below has not been paid by the accused/respondents, the petitioner will be at liberty to move necessary application before the Competent Court seeking the said compensation.

14.11.2024

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*