



CRM-M-3635-2013(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-3635-2013(O&M)
DATE OF DECISION: 31.07.2024

JitenderPetitioner

VERSUS

State of HaryanaRespondent

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.Anmol Partap Singh Mann, Advocate,
for the petitioner.

Mr.Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J (ORAL)

1. The petitioner by way of instant petition has approached this Court praying for setting aside the judgment dated 08.11.2013 passed by learned Additional Sessions Judge, Rewari whereby the appeal preferred by him against the judgment of conviction dated 08.08.2011 and order of sentence dated 10.08.2011 passed by the learned JMIC, Rewari convicting the petitioner under Sections 354 and 506 IPC each for a period of one year and to pay fine of Rs.500/- each and in default of payment of fine to further undergo RI for 15 days.
2. In brief the facts are that on 12.03.2003, Sunita wife of Parmanand after coming to the Police Station gave an application to the effect that on 11.3.2003 she and her sister Chhoti wife of Ramanand went to their field for taking fodder for the animals. She was cutting fodder near well and her sister was cutting fodder one acre distance away from there. At about 11 AM Jitender son of Banwari Lal suddenly came there. He caught her hand with bad intention when she tried to raise alarm then he put his hand on her mouth. After removing his hand she raised voice then her sister came



there and rescued her from the clutches of the accused. She also stated that accused put his hand on her mouth with such a force because of which she received injuries on her lips and blood also came there. Thereafter, accused fled away in the mustard crop. While leaving he gave a threat that if they inform the police in this regard he will kill them. Thereafter, she and her sister came to their house and narrated the whole instance to her mother in law. In the evening Banwari father of the accused came to their house and he requested to forgive his son. But she did not agree for this. Thereafter, she moved the present application. On the basis of the present application a case under sections 323/354/506 IPC was got registered. Investigation was got conducted by ASI Ravinder Singh. Statement of witnesses were recorded under Section 161 Cr.P.C. Site plan was prepared. After completion of all the necessary investigation, challan report under Section 173 Cr.P.C was prepared and presented in the Court for trial.

3. Learned counsel appearing for the petitioner submits that the judgments passed by both the Courts below are based on conjectures and surmises. It is further submitted that petitioner herein does not have any criminal antecedents and has old parents and family to look after. He is facing trial for the last eleven years and therefore, the Courts below ought to have considered the case of the petitioner for releasing him on probation under Section 361 of the Cr.P.C read with Sections 3 and 4 of the Probation of Offenders Act, 1958.

4. Per contra, learned State counsel supports the judgments passed by the Courts below while contending that the petitioner herein had misused and abused the process of law by giving false evidence on oath before the Court and therefore, was rightly convicted and sentenced by the Courts below.

5. I have heard learned counsel for the parties and perused the paper book with their able assistance.

6. Sections 3 and 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 and 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 Judges 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.....”

A two Judges 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.”

7. In view of the aforesaid facts and circumstances, judgment passed by the learned Additional Sessions Judge, Rewari, the sentence of the petitioner is upheld, however, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of 18 days as such this Court is of the view that this is a fit case to release the petitioner on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, it is directed that the petitioner shall be released on probation of good conduct on furnishing a personal bond of Rs.10,000/- 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 the concerned trial court. The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commit breach of the undertaking given by him, he shall be called upon to undergo the remaining sentence imposed upon him by the learned Additional Sessions Judge, Rewari.

8. With the aforesaid directions, the instant petition stands allowed.

31.07.2024

mamta

(HARPREET SINGH BRAR)
JUDGE

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