



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

CRR-1821-2014

Date of decision: 20.09.2024

Surinder Bhushan

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Raghav Bali, Advocate for  
Mr. Pankaj Bali, Advocate for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

\*\*\*\*

**KARAMJIT SINGH, J. (ORAL)**

1. The present revision petition has been filed by the petitioner/complainant against the judgment dated 15.02.2014 passed by the Court of Additional Sessions Judge, Karnal vide which the appeal filed by accused/respondents No.2 to 6 against the judgment dated 21.12.2011 passed by the Court of Judicial Magistrate Ist Class, Karnal whereby respondents No.2 to 6 were convicted and sentenced to imprisonment, was partly modified and the conviction of respondents No.2 to 6 was upheld but they were directed to be released on probation of good conduct by giving them benefit of the provisions of Section 4 of Probation of Offenders Act.

2. The allegations in nutshell are that on 03.08.2004 at about 08:30 AM, when the petitioner was standing in the passage, a dispute had arisen over the flow of water between him and Rajbir and Shishan. At about 09:30 AM, the complainant was standing near his fields, in the meantime,



Shishan, Ram Singh and Sanju @ Sanjeev armed with *lathis*, Ramesh armed *gandasi* came there. Shishan gave *lathi* blow on the head, Sanjeev @ Sanju gave *lathi* blow on left hand, Ram Singh gave *lathi* blow on waist while Ramesh gave *gandasi* blow on head of the petitioner. Parvesh who also reached there attacked the petitioner with a sword. In the meantime, Tara Chand and Parkasha intervened and caught hold of Parvesh and snatched his sword. On this, the accused persons fled away from there. Petitioner was taken to general hospital, Karnal and the matter was reported to the police and formal FIR was registered. On completion of investigation, challan was presented against the accused persons.

3. The learned trial Court framed charges under Sections 323, 324, 325 read with Section 34 IPC to which the accused pleaded not guilty and claimed trial.

4. In order to prove its case, prosecution had examined 7 witnesses in all namely Surender Bhushan as PW-1, Parkasha as PW-2, Mukhtiar Singh as PW-3, Doctor Adhishwar Sharma as PW-4, Bheem Singh as PW-5, Iqbal Singh as PW-6, ASI Jain Sahab as PW-7.

5. After conclusion of the prosecution evidence, the entire incriminating evidence was put to the accused persons in their statements recorded under Section 313 Cr.P.C. They pleaded innocence and false implication.

6. The accused examined DW-1 Balram Sharma, DW-2 Dharambir, DW-3 Pala Ram and produced various orders Ex.D-1 to Ex.D-3, copy of matriculation certificate as Ex.D-4, copies of mark sheets Ex.D-5 and Ex.D-6 and closed their defence evidence.

7. After taking into consideration the rival contentions raised by the counsel for the parties, the trial Court vide judgment and order dated 21/22.12.2011 convicted and sentenced the accused persons as follows:-

| Offence                  | Sentence                                                                                                  |
|--------------------------|-----------------------------------------------------------------------------------------------------------|
| Under Section 323/34 IPC | RI for 6 months and to pay a fine of Rs.500/- and in default of payment of fine to undergo SI for 15 days |
| Under Section 324/34 IPC | RI for 2 years and to pay a fine of Rs.500/- and in default of payment of fine to undergo SI for 15 days  |
| Under Section 325/34 IPC | RI for 2 years and to pay a fine of Rs.500/- and in default of payment of fine to undergo SI for 15 days  |

All sentences were ordered to run concurrently.

8. Accused namely Ram Singh, Ramesh, Shishan, Parvesh Kumar and Sanjeev @ Sanju, being aggrieved filed criminal appeal. The said appeal was disposed of by the Court of Additional Sessions Judge, Karnal vide order dated 15.02.2014 vide which the Appellate Court affirmed the judgment of conviction passed by the trial Court but modified the sentence part and gave direction to release the accused persons on probation by giving them benefit of provisions of Section 4 of Probation of Offenders Act.

9. Complainant/petitioner being aggrieved by the aforesaid order/judgment dated 15.02.2014 to the extent whereby respondents No.2 to 6 were directed to be released on probation, has filed the present revision petition.

10. I have heard the counsel for the petitioner and the State counsel.

11. The counsel for the petitioner while referring to the provision



of Section 4 of the Probation of Offenders Act (in short 'the Act'), submits that the appellate Court, before passing the aforesaid order to release the accused on probation of good conduct, had not sought report of the Probation Officer, in compliance of the provisions of Section 4(2) of the Act. Further, no direction was given that respondents No.2 to 6 be kept under the supervision of a Probation Officer to be specified in the order as per mandate of Section 4(3) of the Act. It is further submitted that while the aforesaid accused were directed to be released on probation, no order was passed directing them to pay certain amount as a compensation to the petitioner, who sustained injuries at their hands. The counsel for the petitioner further submits that the aforesaid order passed by the appellate Court whereby respondents No.2 to 6 were directed to be released on probation, deserves to be recalled. The accused persons be directed to appear and receive the sentence imposed by the trial Court.

12. The State counsel also supported the contentions raised by the counsel for the petitioner.

13. I have considered the submissions made by counsel for the petitioner.

14. In the instant case, respondents No.2 to 6 who were more than 21 years of age were convicted under Sections 323, 324, 325 read with Section 34 IPC. An offence under Section 323 IPC is punishable with fine only or with imprisonment of either description for a term which may extend to one year or with fine which may extend to Rs.1000/- or with both. An offence under Section 324 IPC is punishable with imprisonment of either description for a term which may extend to three years or with fine or with both. An offence under Section 325 is punishable with imprisonment of either description for a term which may extend to seven years and shall



also be liable to fine.

15. Respondents No.2 to 6 were having statutory right for claiming the benefit of provision of Section 360 Cr.P.C, they being not previous convicts. The Appellate Court was under a duty to consider the applicability of Section 360 Cr.P.C, as mandated under Section 361 Cr.P.C. In view of express provision of Section 360 Cr.P.C and considering the facts and circumstances of the case, nature of the offence, the character of the accused persons and the time period which had lapsed since the date of incident, the Appellate Court rightly exercised its power and gave concession of probation to the accused persons in accordance with law, even if, the said concession was given by the said Court by invoking provision of Section 4 of the Act. To my mind, there is no illegality in the impugned judgment except for the fact that while releasing the accused persons on probation, the appellate Court did not award any compensation to the petitioner.

16. Taking into consideration, the facts and circumstances of the case and further the fact that the accused persons caused injuries to the petitioner, this Court is of the view that petitioner is entitled to get reasonable compensation from the accused persons. Respondents No.2 to 6 are hereby directed to pay compensation worth Rs.5000/- to the petitioner within a period of next 60 days.

17. With aforesaid modification, the present revision is hereby disposed of.

**20.09.2024**

*Yogesh*

**(KARAMJIT SINGH)**  
**JUDGE**

**Whether speaking/reasoned:-**  
**Whether reportable:-**

**Yes/No**  
**Yes/No**