



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

CRR-2257-2015

DATE OF DECISION: 29.07.2024

Vivek

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.P.S.Ahluwalia, 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 15.06.2015 passed by the learned Sessions Judge, Bhiwani, whereby the appeal preferred by him against the judgment of conviction dated 20.12.2013 and order of sentence dated 23.12.2013 passed by the learned SDJM Charkhi Dadri convicting the petitioner under Sections 341 and 354 IPC in the criminal case and sentencing him to undergo rigorous imprisonment for a period of one month under Section 341 IPC and to pay fine of Rs. 500/- and in default of payment of fine, to further undergo SI for a period of one week and also to undergo RI for two years and to pay a fine of Rs,5,000/- under Section 354 IPC and in default of payment of fine, to further undergo SI for a period of six months was dismissed.



2. In brief, the facts are that on 27.08.2006, Hawa Singh SI/SHO along with other police officials was present at Phawara Chowk, Dadri, where Dheeraj, complainant presented application Ex.PW1/A before him alleging therein that daughter of his maternal uncle Jai Bhagwan, namely Jyoti aged about 14/15 years was studying in 8th standard in Vardhman School, Dadri. On 25.08.2006, she was returning to home after school hours. Vivek son of Sat Narain came from behind on his motorcycle. He stopped his motorcycle near Jyoti and offered lift to her. Jyoti refused to take lift from him and he again offered lift to her and assured to drop her at the turn and when Jyoti refused, he caught hold of her hand and attempted to make her sit on the motorcycle forcibly. Jyoti got her hand released and then Vivek went ahead. On reaching home, Jyoti told this fact to her mother. It was further alleged by the complainant that his father was serving in Army and his maternal uncle Bijender had gone to Delhi for treatment of his another maternal uncle and he informed his maternal uncle Bijender telephonic ally and he had come to house that day and he (Bijender) alongwith Sarup Singh and Siri Kishan went to the house of accused for making a complaint as it was a matter relating to the reputation of a girl and they wanted to settle it without making it public but Sat Narain, father of accused Vivek and mother of accused without consulting the accused started unnecessary arguments with them. Therefore, action be taken against the accused.

3. After investigation, Vivek was sent for trial and was convicted and sentenced vide judgment and order dated 20/23.12.2013 passed by the learned SDJM, Charkhi Dadri. Being aggrieved against the said judgment of conviction and order of sentence, petitioner preferred an appeal before the learned Sessions Judge, Bhiwani, who vide order dated 15.06.2015 dismissed the appeal.



4. 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 ten 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.

5. 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.

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

7. Section 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 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.....”

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 the learned Sessions Judge, Bhiwani dismissing the appeal of the petitioner, however, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of two months and eleven days out of total sentence of two years, this court is inclined to give him the benefit of 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 for 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 sentence imposed upon him by the learned Sessions Judge, Bhiwani.

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

29.07.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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