

797

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2725-2015 (O&M)
Date of decision: 30.07.2024

Dev Dutt

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

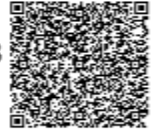
Present: None for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 06.07.2015 passed by learned Additional Sessions Judge, Sonapat, vide which, while upholding the judgment of conviction dated 28.01.2014 and the order of sentence dated 30.01.2014 passed by learned Principal Magistrate, Juvenile Justice Board, Sonapat, in FIR No.387 dated 16.10.2012 under Sections 363, 366-A, 376 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Kharkhoda, District Sonapat, vide which

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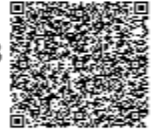


the petitioner was convicted under Sections 363, 366-A, 376 of IPC and he was ordered to be sent to Central Jail, Hisar, juvenile ward, for a period of six months under Section 363 of IPC, one year under Section 366-A of IPC and three years under Section 376 of IPC.

2. Brief facts of the case are that on 15.10.2012, complainant Ajit Ram Bansal gave a written complaint to Police Station Farmana with the allegations that on Monday, at about 09.30 a.m., his niece-victim went missing from home and after personal enquiry, it came to know that the petitioner was also missing since morning. He had suspicion that the petitioner had enticed away his niece, who was minor. With these allegations, FIR (*supra*) was registered.

3. It is pleaded in the petition that the judgment passed by learned trial Court is based on conjectures and surmises. It is further pleaded that the petitioner was minor, when FIR (*supra*) was registered. He does not have any criminal antecedents. Learned trial Court failed to appreciate the fact that there are several contradictions in the testimonies of the prosecution witnesses and even as per FSL report, no semen was found on the cloth of the victim. The petitioner is facing trial for the last 12 years and therefore, learned trial Court ought to have considered the case of the petitioner for releasing them on probation under Section 361 Cr.P.C read with Sections 3 & 4 of the Probation of Offenders Act, 1958.

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4. Learned State counsel supports the judgment passed by learned trial Court, while contending that the petitioner had misused and abused the process of law by giving false evidence on oath and therefore, the petitioner was rightly convicted and sentenced by learned Court below.

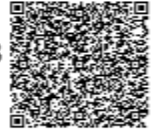
5. I have heard learned State counsel and perused the record of the case with his able assistance.

6. Sections 3 & 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 & 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.....”

7. A two Judge Bench of the Hon'ble Supreme Court in ***Lakhvir***

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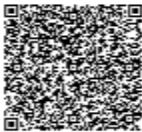


Singh Vs. State of Punjab, (2021) 2 SCC 763 speaking through Justice Sanjay Kishan Kaul, has held as under:-

“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 learned trial Court, convicting 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 01 year, 06 months and 20 days out of total sentence of three 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 he will be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each 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 learned trial Court concerned. The petitioner will remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioner

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fails to comply with the said directions or commit breach of the undertaking given by him, he will be called upon to undergo the sentence imposed upon him by learned trial Court.

9. With the aforesaid observations and directions, instant revision petition stands allowed.

10. All the pending miscellaneous application(s), if any, shall also stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

30.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No