

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

CRR-922-2014 (O&M)

Date of Decision : **07.03.2024**

DATA RAM

.....Petitioner

VERSUS

MANGAL & OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr.Rakesh Dhiman, Advocate,
for the petitioner.

Mr. Abhimanyu Kalsy, Advocate for
Mr. Siddhartha Yadav, Advocate,
for respondent no.1 to 6.

Mr. Bhupender Singh, DAG, Haryana
for respondent no.7.

KULDEEP TIWARI, J.(Oral)

1. Through the instant revision petition, preferred by the complainant throw a challenge to the judgment dated 16.11.2013 passed by the Additional Session Judge, Gurgaon (hereinafter referred as 'the first Appellate Court concerned') in Criminal Appeal No.81, dated 07.11.2012, wherein, the conviction of respondents no.1 to 6 was maintained, however, they have been granted the relief of probation.

2. A perusal of the paper book reveals that respondents no.1 to 6 have faced trial in a private complaint filed under Sections 148, 149, 323, 427, 452 and 506 of the IPC, vide Crl.Complaint NO.642 of 25.02.2006. The learned trial Court concerned after finding that the charges framed against respondents no.1 to 6, has been proved, and were

held guilty for the commission of offence punishable under Sections 148, 452, 323, 342, 427 and 506 read with Section 149 of the IPC, and sentenced as under:-

“4. In view of the respective submissions made above, the convicts except Jasso are, hereby, sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/- each for the offence punishable under Section 148, IPC. In default of payment of fine, the said convicts shall be liable to undergo further simple imprisonment for a period of one month. In addition, the said convicts are, hereby, sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs. 1,000/- each for the offence punishable under Section 452.. IPC. In default of payment of fine, the said convicts shall be liable to undergo further simple imprisonment for a period of two months. In addition, the said convicts are, hereby, sentenced to undergo simple imprisonment for a period of six months each for the offence punishable under Section 323, IPC. The said convicts are, also, sentenced to undergo simple imprisonment for a period of six months each for the offence punishable under Section 342, IPC. In addition, the said convicts are, hereby, sentenced to undergo simple imprisonment for a period of six months each for the offence punishable under Section 427, IPC. The said convicts are, also, sentenced to undergo simple imprisonment for a period of one year each for the offence punishable under Section 506, IPC. All the sentences shall run concurrently. The period already undergone by the convicts in custody during investigation, inquiry and trial shall be set-off against the substantive sentence imposed upon them. Fine paid.

5. It has been submitted that the convict Jasso is a 45 years old lady and has to take care of her family including four children and a mother-in-law aged 90 years. Therefore, taking a lenient view she is, hereby, given the benefit of Probation of Offenders Act and is released on probation of good conduct on her furnishing bonds in the sum of Rs. 25,000/- for one year, undertaking to appear and receive sentence as and when called upon during the said period. File be consigned to record room after due compliance. File be consigned to record room after due compliance.”

3. So far as respondent no.6, Jasso wife of Mangal, is concerned, she was released on probation by the learned trial Court concerned itself. However, respondents no.1 to 5, preferred a statutory appeal before the first Appellate Court concerned, which was partly allowed, vide impugned judgment/conviction (*supra*), and order of sentence passed by the learned trial Court concerned, was set aside to the extent that the accused (present respondents no.1 to 5) are entitled to be

acquitted under Section 148 IPC, and Section 427 and 506 IPC, for want of sufficient evidence. However, they were held guilty under Section 323, 342 and 452 read with Section 149 IPC.

4. Thereupon, while awarding the quantum of sentence, the appellate Court concerned, preferred to release appellants (respondents no.1 to 5 herein), on probation, (whereas respondent no.6 already on probation), which caused grievance to the complainant/petitioner, therefore, he has challenged the order (*supra*), of the first appellate Court by filing the instant petition.

5. At the time of issuance of notice of motion on 04.08.2015, the following order was passed by a co-ordinate Bench of this Court:-

“It is submitted on behalf of petitioner that respondents No. 1 to 5 were convicted by the learned trial Court for commission of offence under Sections 148, 452, 323, 342, 427 and 506 read with Section 149 of the Indian Penal Code and were sentence to imprisonment under each section separately vide order dated 25.10.2012 and in the appeal filed by the respondents, although the judgment of conviction under Section 323, 342 and 452 read with Section 149 of IPC was upheld, the respondents were given benefit of probation for one year and were released on their furnishing bonds vide judgment dated 16.11.2013 by the learned appellate Court. In no manner, complainant was compensated by the learned appellate court. Notice of motion for 03.12.2015.”

5. Since the grievance as raised by learned counsel for the petitioner is only that no adequate compensation was awarded at the time of releasing respondents no.1 to 6, on probation, therefore, the order (*supra*) as passed by the first appellate Court requires interference by this Court.

6. On the other hand, learned counsel for respondents no.1 to 6, submits that the private respondents are ready and willing to compensate the present petitioner, even after completion of their probation period

successfully.

7. The *bona fide* submission as made by learned counsel for respondents no.1 to 6, is accepted by learned counsel for the petitioner.

8. This Court has heard the learned counsel for all the parties concerned, and has gone through the entire case file.

9. Considering the fact that respondents no. 1 to 6, are ready and willing to compensate the petitioner, and grievance of the petitioner would be satisfied if adequate compensation is awarded to him, respondents no.1 to 6, are directed to pay total compensation amounting to Rs.90,000/- to the petitioner, to be deposited before the learned trial Court concerned, within three months from today. Upon depositing the said amount, the same shall be disbursed to the petitioner, on moving appropriate application before the learned trial Court concerned.

10. It is further made clear that in case the aforesaid compensation amount is not deposited within the stipulated time, the petitioner is at liberty to revive the instant petition.

11. **Disposed of** accordingly.

March 07, 2024
dharamvirvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No