



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4141-2016
DATE OF DECISION: 02.08.2024

Kuldeep SinghPetitioner

VERSUS

State of PunjabRespondent

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.P.S.Sekhon, Advocate,
for the petitioner.

Mr.Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J (ORAL)

1. The petitioner by way of instant petition has approached this Court praying for setting aside the judgment dated 16.08.2016 passed by learned Additional Sessions Judge, Sangrur whereby the appeal preferred by him against the judgment of conviction and order of sentence dated 02.06.2015 passed by the learned SDJM, Sunam, convicting the petitioner under Section 354-B IPC and sentencing him to undergo RI for a period of three years and to pay fine of ₹1,000/- and in default of payment of fine to further undergo RI for a period of three months, was dismissed.
2. Allegations as per FIR are that on 07.10.2013 after discharge of her son Sukhwinder Singh from T.B. Hospital, Patiala complainant Surjit Kaur along with her sons Narbhai Singh and Sukhwinder Singh was returning back home and it was about 06:00 PM and they were waiting outside City Sunam for some vehicle to reach Namol then a motorcycle heading towards Namol came from Bathinda road and she indicated him to stop. The said Hindu young man stopped his motorcycle and asked her that where she had to go, to which she replied that she was waiting for someone to go to Namol. On this, he agreed to take her along on his motorcycle and to drop at Namol.



She sat on the pillion seat of his motorcycle. After covering some distance, instead of heading towards village Namol, the said Hindu young man turned his motorcycle on the passage along with the water course. Doubting his intentions, she jumped from the moving motorcycle and started galloping towards the road heading towards village Namol. The moment she reached opposite the land belonging to Sukhwinder Singh S/o Ram, the said Hindu young man came from behind and wrongfully restrained her and he used force against her and caught hold of her from her arm; he was forcing her to sit with him on his motorcycle. When she raised hue and cry, he tried to overpower her by putting his hands on her mouth. In the meanwhile, Sukhwinder Singh and his neighbourer Satgur Singh S/ Mal Singh reached there and they focused the light of their torch on them and thereby, the said young man ran away from the spot through the agricultural fields. Later on, she came to know that the said Hindu young man was Kuldeep Singh S/o Shinder Singh R/o Chhajli. Sukhwinder Singh and Satgur Singh consoled her. Thereafter, her son Nirbhai Singh reached there and Sukhwinder Singh and Satgur Singh not reached there. The said Kuldeep Singh would have raped her; that she was very scared on the day of the occurrence.

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 around 11 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 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.”

7. In view of the aforesaid facts and circumstances, judgment passed by the learned Additional Sessions Judge, Sangrur is upheld, however, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of 7 months and 24 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 the petitioner shall be released on probation for good conduct on furnishing a personal bond of ₹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 Additional Sessions Judge, Sangrur.

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

02.08.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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