

**CRR-1335-2017 (O&M)****1****865 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-1335-2017 (O&M)
Date of Decision: August 09, 2024****SIMARJIT SINGH****.....Petitioner****Versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.****Mr. Rishabh Singla, AAG Punjab.************HARPREET SINGH BRAR, J. (ORAL)**

1. The present revision is preferred by the petitioner-accused against the judgment dated 22.02.2017 passed by the learned Additional Sessions Court, Gurdaspur whereby the judgment of conviction and order of sentence dated 11.05.2016 passed by the Judicial Magistrate Ist Class, Batala has been upheld.

2. The brief facts of the case of the prosecution as alleged are that the present case against the petitioner-Simarjit Singh was registered on the statement of complainant Mamta Devi on the basis of her statement to the effect that she had been serving as Head Mistress at Govt. Primary School, Mallianwal for the last seven years and that when she goes to school from Bus Stand Mallianwal, petitioner used to tease and stalk her in the way and commit obscene acts and she had complained to the respectables of the village in this

regard, but he did not stop his illegal acts. Complainant further alleged that on 17.09.2014, at about 7.30 AM, when she reached near the gate of the school, petitioner stopped her and caught her from her arm in order to outrage her modesty and started committing indecent acts with her and when she tried to enter the school, he gave pushes to her and told her that he will not allow her to enter the school and further threatened to kill her if she informed anyone about this. Complainant also alleged that the whole occurrence was seen by her colleague teacher Ramandeep Kaur who was also coming to school. It was further alleged that petitioner-accused had created hindrance in performance of her duty and had also insulted her.

3. The learned trial Court, after assessing the material on record, charged the accused-petitioner for committing an offence under Sections 353, 186, 354-D and 506 of Indian Penal Code, to which he pleaded not guilty and claimed trial. Following trial, the petitioner were held guilty vide judgement dated 11.05.2016 and was awarded the following sentence vide order of even day by the learned trial Court: -

Offence	Sentence
Section 354 IPC	Rigorous imprisonment for three years with fine of Rs. 5000/- and in default of payment of fine, further awarded rigorous imprisonment for three months.
Section 354-D IPC	Rigorous imprisonment for three years with fine of Rs. 5000/- and in default of payment of fine, further awarded rigorous imprisonment for three months.

4. Aggrieved by the same, the convicts preferred an appeal before the lower Appellate Court, which was dismissed vide judgment dated 22.02.2017.

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5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction and order of sentence dated 11.05.2016 passed by the trial Court on merits and restricts his prayer to modification of the order of quantum of sentence to that of the release of the petitioner on probation of good conduct and urged the Court to take a lenient view of the matter as the petitioner has reformed and intend to live his life as law-abiding citizen. Reliance is also placed on the judgment rendered by the Hon'ble Supreme Court in ***Lakhvir Singh Etc. vs. The State of Punjab 2021 AIR SC 555.***

6. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellant Court and as such, he does not deserve any leniency. However, he could not controvert the fact that the petitioner is not involved in any other case. .

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

8. 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***



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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.”

9. The Hon’ble Supreme Court in **Lakhanlal @ Lakhan Singh vs. State of Madhya Pradesh (2021) 6 SCC 100**, has held as follow:

“14. At this stage, it may be noticed that a two Judge Bench of this Court in Sanjay Dutt v. The State of Maharashtra 2013 SCC online SC 252 considering the provisions of Section 360 of the Code and Sections 3 and 4 of 1958 Act held that the coexistence of such provisions would lead to enormous results. It was further held that the intention to retain the provisions of Section 360 of the Code and 1958 Act at the same time in a given area cannot be gathered from the provisions of Section 360 or any provision of the Code, when the Court held as under:-



"81) section 360 of the Code of Criminal Procedure, 1973 does not provide for any role for probation officers in assisting the courts in relation to supervision and other matters while the Probation of Offenders Act does make such a provision. While section 12 of the Probation of Offenders Act states that a person found guilty of an offence and dealt with under section 3 or 4 of the Probation of Offenders Act, shall not suffer disqualification, if any, attached to the conviction of an offence under any law. The Code of Criminal Procedure does not contain parallel provision. Two statutes with such significant differences could not be intended to coexist at the same time in the same area. Such co-existence would lead to anomalous results. The intention to retain the provisions of Section 360 of the Code and the Probation of Offenders Act as applicable at the same time in a given area cannot be gathered from the provisions of Section 360 or any other provisions of the Code."

15. We find that the attention of the Court was not drawn to sub Section (10) of Section 360 which provides that Section 360 will not affect the provisions of 1958 Act or other similar laws for the time being in force for the treatment, training or rehabilitation of youthful offenders. Still further, Section 4 of the 1958 Act has a non obstante clause, giving overriding effect over any other provisions of law."

Reliance can also be placed upon the judgments rendered by the Hon'ble Supreme Court in ***Chhanni vs. State of Uttar Pradesh (2006) 5 SCC 396*** and ***State of Haryana vs. Prem Chand (1997) 7 SCC 756***.

11. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Fatehabad upholding the judgment of conviction passed by the trial Court is upheld, however, having regard to the fact that the petitioner has no criminal antecedents, this court is inclined to give them the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, he is ordered to be released on probation of good conduct on

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furnishing a personal bond of Rs. 20,000/- each with a surety each in the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of two years, to the satisfaction of the concerned trial court within a period of two weeks. The petitioner shall remain under the supervision of the concerned Probation Officer(s) 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 them by the learned Additional Sessions Judge, Fatehabad.

12. With the aforesaid directions, the instant petitions stand disposed of.

(HARPREET SINGH BRAR)

JUDGE

09.08.2024

Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No