



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

CRR-1533-2017

Date of decision: 25.09.2024

Dharambir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Deepak Goyal, Advocate for the petitioner.
(Through VC)

Mr. Karan Garg, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioner/complainant against the judgment dated 03.12.2016 passed by the Court of Ld. Sessions Judge, Sonipat vide which the appeal filed by accused/respondents No.2 to 4 against the judgment and order dated 27/30.11.2015 passed by the Court of Judicial Magistrate Ist Class, Sonipat whereby respondents No.2 to 4 were convicted and sentenced to imprisonment, was partly modified and the conviction of respondents No.2 to 4 was upheld but they were directed to be released on probation.

2. The allegations in nutshell are that on 08.05.2009 at about 08:30 PM, there was a power outage and complainant Dharambir Singh went near the transformer installed in the village, where Ramesh and Ravinder (Rakesh) both sons of Ram Mehar were present. The complainant found that the electric wire of his house was disconnected. He inquired about the same from Ramesh and Ravinder on which, they got enraged and



attacked him with axe. Complainant raised alarm on which, his wife Kamlesh, daughter Manisha and son Neeraj arrived at the spot but they were also attacked and thrashed by Ramesh and in the meantime, Rahish and Ram Mehar also came there armed with hockey sticks and they also caused injuries to the complainant party. On hearing the commotion, Hawa Singh son of Kali Ram came on the spot and on this, the accused fled away from there.

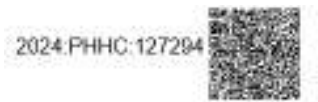
3. On completion of investigation, challan was presented against respondents No.2 to 4. The learned trial Court framed charges under Section 323, 325 read with Section 34 IPC to which the accused pleaded not guilty and claimed trial.

4. In order to prove its case, prosecution had examined in all 11 witnesses namely PW-1 Manisha, PW-2 complainant Dharambir, PW-3 Dr. Rakesh Handa of Handa Hospital Sonipat, PW-4 Yogesh Goyal, Medical Officer, General Hospital, Sonipat, PW-5 SI Ram Kumar, (Retd.), PW-6 Kamlesh, PW-7 Neeraj, PW-8 SI Inder Singh, PW-9 Constable Manoj Kumar, PW-10 Dr. Ashwani Kumar, SMO, General Hospital, Sonipat and PW-11 Inspector Manbir Singh.

5. After conclusion of the prosecution evidence, the entire incriminating evidence was put to the accused persons in their statements recorded under Section 313 Cr.P.C. They pleaded innocence and false implication.

6. The accused examined DW-1 Dr. Yogesh Goyal, Medical Officer, Sonipat in their defence.

7. After taking into consideration the rival contentions raised by



the counsel for the parties, the trial Court vide judgment and order dated 27/30.11.2015 convicted and sentenced the accused persons as follows:-

Offence	Sentence
Under Section 323/34 IPC	RI for One year each
Under Section 325/34 IPC	RI for two years each and fine of Rs.2000/- and in default of payment of fine to further undergo SI for 30 days each.

All sentences were ordered to run concurrently.

8. Being aggrieved, accused namely Ramesh, Rakesh (Ravinder) and Rahish sons of Ram Mehar, filed criminal appeal. The said appeal was disposed of by the Court of Sessions Judge, Sonipat vide order dated 03.12.2016 vide which the Appellate Court affirmed the judgment of conviction passed by the trial Court but modified the sentence part and gave direction to release the respondents No.2 to 4 on probation.
9. Complainant/petitioner being aggrieved by the aforesaid order/judgment dated 03.12.2016, to the extent whereby respondents No.2 to 4 were directed to be released on probation, has filed the present revision petition.
10. I have heard the counsel for the petitioner and the State counsel.
11. The counsel for the petitioner while referring to the ocular and medical evidence submits that petitioner sustained head injury and his medical record was proved by PW-3 Dr. Rakesh Handa. That all the injured were medico legally examined by PW-4 Dr. Yogesh Goyal who proved their medico legal reports which are available on the record. The counsel for the petitioner further submits that the oral statements made by complainant



and other eye witnesses namely PW-1 Manisha, PW-6 Kamlesh and PW-7 Neeraj are fully corroborated by the aforesaid medical evidence. It is further submitted that no ground was made out to release the respondents No.2 to 4 on probation. It is further submitted that the concession of probation given to respondents No.2 to 4 is not sustainable and the said order deserves to be set aside. The counsel for the petitioner further submits that as per the order dated 03.12.2016 passed by the Court of Sessions Judge, Sonipat, respondents No.2 to 4 were directed to pay a sum of Rs.5000/- each as a compensation to the injured. However, they failed to do so and even on this ground, the order of probation deserves to be set aside and respondents No.2 to 4 be called to serve the sentence imposed by the trial Court.

12. The State counsel also supported the contentions raised by the counsel for the petitioner.

13. I have considered the submissions made by counsel for the petitioner.

14. In the instant case, respondents No.2 to 4 who were more than 21 years of age were convicted under Sections 323, 325 read with Section 34 IPC. An offence under Section 323 IPC is punishable with fine only or with imprisonment of either description for a term which may extend to one year or with fine which may extend to Rs.1000/- or with both. An offence under Section 325 is punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

15. Respondents No.2 to 4 were having legal right to claim the benefit of provision of Section 360 Cr.P.C, they being not previous convicts. The Appellate Court was under a duty to consider the applicability of Section 360 Cr.P.C, as provided under Section 361 Cr.P.C. In view of express provision of Section 360 Cr.P.C and considering the facts and circumstances of the case, nature of the offence, the antecedents of the



accused persons and the time period which had lapsed since the date of occurrence, the Appellate Court rightly exercised its power and gave concession of probation to the accused persons in accordance with law. The appellate Court also granted compensation worth Rs.5000/- each to the injured which was to be paid by respondents No.2 to 4.

16. This Court is of the considered opinion that there is no illegality in the impugned judgment and the appellate Court rightly exercised its jurisdiction while granting concession of probation to respondents No.2 to 4.

17. The Court of Sessions Judge, Sonipat is hereby directed to ensure that the compensation awarded by the Court concerned vide its order dated 03.12.2016 be recovered from respondents No.2 to 4 and thereafter, disbursed to the injured persons in due course of law. The entire exercise is to be completed within next 3 months and the compliance report is to be submitted with the registry of this Court.

18. The present revision is hereby disposed of in aforesaid terms.

25.09.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No