

2024:PHHC:097607



832

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-945-2016 (O&M)
Date of decision: 30.07.2024

Amarjit Kaur and others

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Barjinder Singh, Advocate for
Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment of conviction dated 18.10.2012 and the order of sentence dated 23.10.2012 passed by learned Additional Chief Judicial Magistrate, Amritsar, in FIR No.137 dated 09.09.2007 under Sections 452, 354, 342, 509, 323, 500, 120-B, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Kathunangal, District Amritsar, vide which the petitioners

were convicted and sentenced as follows: -

1.	Shingara Singh	148 of IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
		354 read with Section 149 of IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
		452 read with Section 149 of IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.300/- and in default of payment of fine, rigorous imprisonment for a further period of 15 days
		342 read with Section 149 of IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.100/- and in default of payment of fine, rigorous imprisonment for a further period of 07 days
		323 read with Section 149 of IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.100/- and in default of payment of fine, rigorous imprisonment for a

			further period of 07 days
		324 read with Section 149 of IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
2.	Gurmit Singh	148 of IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
		354 read with Section 149 of IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
		452 read with Section 149 of IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.300/- and in default of payment of fine, rigorous imprisonment for a further period of 15 days
		342 read with Section 149 of IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.100/- and in default of payment of fine, rigorous imprisonment for a

			further period of 07 days
		323 read with Section 149 of IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.100/- and in default of payment of fine, rigorous imprisonment for a further period of 07 days
		324 read with Section 149 of IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
3.	Amarjit Kaur	148 of IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
		354 read with Section 149 of IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days
		452 read with Section 149 of IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.300/- and in default of payment of fine, rigorous imprisonment for a

			further period of 15 days
		342 read with Section 149 of IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.100/- and in default of payment of fine, rigorous imprisonment for a further period of 07 days
		323 read with Section 149 of IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.100/- and in default of payment of fine, rigorous imprisonment for a further period of 07 days
		324 read with Section 149 of IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- and in default of payment of fine, rigorous imprisonment for a further period of 10 days

2. The petitioners also filed an appeal before learned Additional Sessions Judge, Amritsar and vide impugned judgment dated 14.09.2015, while upholding the conviction under Sections 354, 452, 342, 323, 324 of IPC, the petitioners were acquitted of the charge framed under Section 148 of IPC.

3. Brief facts of the case are that FIR (*supra*) was registered on the statement of complainant ‘S’ with the allegations that about one month ago,

Satnam Singh @ Sabhi kidnapped Charanjit Kaur, daughter of petitioner Shingara Singh and Babu and Balwinder Kaur @ Bindu, son and daughter-in-law of the complainant, respectively, were named as accused in the criminal case. Thereafter, due to fear, she left the village and started living at Gawal Mandi, Amritsar. On 08.09.2007, after receiving an information regarding disbursement of the pension, at about 06.00 p.m., she went to her Village Ram Diwali. On 09.09.2007, when she was at her house, Shingara Singh armed with bat, Gurmit Singh armed with kirpan and Amarjit Kaur was empty handed entered her house and gave beatings and they took her to Village Dharamshala, where Rattan Singh @ Rattu and the petitioners removed entire clothes from her body and after giving beatings, tied her with a pipal tree, blackened her face and put ash on her head. This incident was witnessed by Puran Singha and Mewa Singh. The complainant came to know that the aforementioned accused hatched a criminal conspiracy in the house of Shiro. The police was informed telephonically and thereafter, the complainant was rescued by SI Kamal Kishore, Incharge, Police Post Chawinda Devi.

4. It is pertinent to note that during pendency of the present revision petition, petitioner No.2 Shingara Singh died and proceedings qua him stand abated vide order dated 20.05.2024.

5. Learned counsel for the petitioners submits that the judgment

passed by learned trial Court is based on conjectures and surmises. It is further submitted that petitioners No.1 & 3 don't have any criminal antecedents and they have old parents and family to look after. They are facing trial for the last 17 years. Learned trial Court ought to have considered the case of petitioners No.1 & 3 for releasing them on probation under Section 361 Cr.P.C read with Sections 3 & 4 of the Probation of Offenders Act, 1958.

6. *Per contra*, learned State counsel supports the judgment passed by learned trial Court, while contending that the petitioners had misused and abused the process of law by giving false evidence on oath and therefore, they were rightly convicted and sentenced by learned Court below.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. 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.....”

9. 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.”

10. In view of the aforesaid facts and circumstances, judgments passed by learned Courts below convicting petitioners No.1 & 3, are upheld, as present revision petition qua petitioner No.2 stands abated, however, having regard to the fact that there are no criminal antecedents against petitioners No.1 & 3 and they have actually undergone sentence of 07 months and 22 days out of total sentence of three years, 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 petitioners No.1 & 3, it is directed that they shall 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. Petitioners No.1 & 3 shall remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if petitioners No.1 & 3 fail to comply with the said directions or commit breach of the undertaking given by them, they will be called upon to undergo the sentence imposed upon them by learned Courts below.

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