



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1061-2018 &
CRR-866-2018
Reserved on 18.09.2024
Date of decision: 03.10.2024

CRR-1061-2018

Salinder Kumar ...Petitioner

Versus

State of Haryana and others ...Respondents

AND

CRR-866-2018

Salinder Kumar ...Petitioner

Versus

State of Haryana and Another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Rohit Singh, Advocate for
Mr. S.S. Dinarpur, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

- Both the petitions are taken up together for final disposal since they are interconnected being arising out of the common judgment dated 29.11.2017 passed by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari in two connected criminal appeals filed by Chand Ram and Sunil Kumar Baldev Raj and Dharam Pal.
- Petitioner Salender Kumar has filed revision petition No.1061-



2018 against the judgment dated 29.11.2017 passed by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari whereby the appeal filed by respondent No.2 to 4 namely Sunil Kumar, Baldev Raj and Dharam Pal was disposed of while upholding the judgment of conviction dated 21.03.2016, with modification regarding order of sentence dated 22.03.2016 passed by the learned trial Court, while releasing the aforesaid accused/respondents No.2 to 4 on probation and revision petition No.866-2018 was filed by the petitioner against aforesaid judgment dated 29.11.2017 whereby the appeal filed by respondent No.2 Chand Ram was disposed of while upholding the judgment of conviction dated 21.03.2016, with modification regarding order of sentence dated 22.03.2016 passed by the learned trial Court, while releasing the aforesaid accused/respondent No.2-Chand Ram on probation.

3. The brief facts of the case are that petitioner Salinder Kumar reported to the police that on 15.07.2012, a fight had taken place between the families of his uncle Balram and Bachan Ram regarding a passage. His aunt Tarawati and her daughter Dimple suffered injuries when they tried to intervene in the fight and both of them were admitted in civil hospital. He took injured Dimple for her CT Scan to Dr. Pardeep Tehlan's Hospital. Thereafter, he was coming back to civil hospital along with Babu Ram, Sunil and Sube Singh in a three wheeler driven by Dharambir. When they reached in parking area of civil hospital, 15/16 boys armed with different weapons like swords iron rods etc., came there. They stopped the three wheeler in which petitioner was sitting. The said boys started damaging three wheeler. At that time, Chand Ram who was armed with sword gave its



multiple blows to Sunil on his head, arm, legs and face. One another boy Sunil Kumar son of Balram who was carrying sword caused injuries to Sunil. Baldev and Dharampal @ Dudha who were carrying iron rods caused injuries on legs and arms of complainant Salinder Kumar and they also caused injuries to Babu Ram. The other accomplices also attacked the complainant party with different weapons. Babu Ram suffered injuries on head, right arm and back. The injured were taken to hospital by Sube Singh. The matter was reported to the police and FIR in this case was registered. On completion of investigation, police presented the challan against the accused persons and they were put on trial.

4. Trial Court vide its judgment and order dated 21/22.03.2016 convicted Sunil Kumar son of Balram, Dharampal @ Dudha, Baldev Raj and Chand Ram under Sections 323, 325, 341, 506 read with Section 34 IPC. The said accused were sentenced to simple imprisonment for a period of one year each under Section 323; simple imprisonment for a period of three years and fine of Rs.500/- each for commission of offence under Section 325 IPC; simple imprisonment for a period of one month each under Section 341 IPC and simple imprisonment for a period of six months each for commission of offence under Section 506 IPC. In default of payment of fine, the accused were to further undergo simple imprisonment for a period of one week each. All the sentences were ordered to run concurrently.

5. Being aggrieved, accused Sunil Kumar, Baldev Raj and Dharampal filed joint criminal appeal while accused Chand Ram filed a separate criminal appeal against judgment and order dated 21/22.03.2016. Both the



said appeals though were dismissed by the Court of Additional Sessions Judge, upholding their conviction, however, the accused were ordered to be released on probation by giving them benefit under Section 4(1) of the Probation of Offenders Act, 1958, (in short 'the 1958 Act) subject to their furnishing probation bonds in sum of Rs.20,000/- each with one surety of the like amount with an undertaking to keep peace and be of good behavior for a period of one year and in case of breach thereof to serve sentence passed by the learned trial Court.

6. Aggrieved by the aforesaid judgment dated 29.11.2017, petitioner/complainant has filed the present revision petitions.

7. I have heard, the counsel for the parties.

8. The counsel for the petitioner has argued that taking into consideration, the facts and circumstances of the case, no ground was made out to release the accused persons on probation. The counsel for the petitioner/complainant has further contended that the impugned judgment passed by the Court of Additional Sessions Judge, dated 29.11.2017 is liable to be set aside, as while releasing the accused persons on probation, the appellate Court was duty bound to consider the report of the Probation Officer concerned, as per mandate of Section 4 (2) of the 1958 Act. However, in the present case, no such report of Probation Officer was called for. Further, while giving concession of probation to the accused, no compensation was granted to the petitioner and other victims.

9. The State counsel submits that the accused persons were first time offenders.

10. I have considered the submissions made by counsel for the



parties.

11. Admittedly, the accused persons were convicted and sentenced to imprisonment under Section 323, 325, 341 and 506 IPC by the learned trial Court vide judgment and order dated 21/22.03.2016. However, the petitioner did not file any appeal/revision against the aforesaid judgment and order dated 21/22.03.2016

12. It is not disputed that all the four accused were more than 21 years of age. The offences under which the accused persons were convicted provided the maximum sentence of 7 years. The accused were having statutory right for claiming the concession under provision of Section 360 Cr.P.C, they being not a previous convicts. The Appellate Court was obligated to consider the applicability of Section 360 Cr.P.C, as per mandate of Section 361 Cr.P.C. When the Courts are equally empowered to release a convict on probation under Section 360 Cr.P.C and Section 4 of the 1958 Act, the harmonious construction would require that report under Section 4(2) of the 1958 Act, would not be mandatory where provision of Section 360 Cr.P.C could also be made applicable. Further, a statutory provision which is beneficial to the accused should be made applicable. In the instant case, in view of express provision of Section 360 Cr.P.C and considering the facts and circumstances of the case, nature of offence and antecedents of the accused persons, the appellate Court rightly exercised its jurisdiction and gave concession of probation to the accused persons. To my mind, there is no illegality in the impugned judgment except for the fact that while releasing the accused persons on probation, the appellate Court should have awarded compensation to the injured/witnesses who appeared as PWs in the

trial Court.

13. Taking into consideration, the facts and circumstances of the case and further the fact that the accused persons caused injuries to Salinder Kumar and others, this Court is of the view that petitioner and other injured persons who appeared in the trial Court as prosecution witnesses are entitled to get reasonable compensation from the accused persons. Respondents Sunil Kumar son of Balram, Baldev Raj, Dharampal @ Dudha and Chand Ram are hereby directed to pay compensation worth Rs.7000/- to each of the said injured persons in total within a period of next 60 days.

14. Except for aforesaid modification, no case for interference in the present petitions is made out and both the petitions deserve to be dismissed.

15. Both the revision petitions are hereby dismissed, subject to aforesaid modification.

16 The Court of Additional Sessions Judge concerned is to ensure that aforesaid amount of compensation be recovered from respondents Sunil Kumar son of Balram, Baldev Raj, Dharampal @ Dudha and Chand Ram and thereafter is disbursed to the injured persons who appeared as PW's in the trial. 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.

03.10.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No