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238 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-576-2017
Date of Decision: January 24, 2024

MEHTA @ BABITPetitioner

Versus

STATE OF HARYANARespondent

CRR-675-2017
Date of Decision: January 24, 2024

GURPREET SINGHPetitioner

Versus

STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Subhash Godara, Advocate
for the petitioners

Mr. Vikas Bhardwaj, AAG Haryana

HARPREET SINGH BRAR, J. (ORAL)

CRR-576-2017 and CRR-675-2017

1. This order of mine shall dispose of the abovementioned two criminal revision petitions as these are arising out of the same FIR. For the sake of brevity, the facts are taken from CRR-576-2017.

2. The present revisions are preferred against the judgment of conviction dated 07.02.2017 passed by the learned Additional Sessions Court, Fatehabad whereby the judgment of conviction and order of sentence dated 24.02.2015 passed by the Sub Divisional Judicial Magistrate Ratia, District

Fatehabad has been partly modified in FIR No. 245 dated 26.06.2011 under Sections 148, 149, 323, 506 IPC registered at Police Station Ratia, Fatehabad.

FACTUAL MATRIX

3. The facts, in brief, are that the complainant Amandeep Singh gave a statement to the police alleging therein that aunts (Parwinder Kaur and Kulwinder Kaur) had come to visit him and his family when his cousins namely Gauna, Giani, Raju and their mother Rami started hurling abuses to his aunts. Further, they rang up their brother, Gurpreet Singh (present petitioner), who arrived at the spot with Ashok; Surjeet Kaur and Mehta @ Babit (present petitioner), armed with sticks, and they all proceeded to beat the complainant and his aunts. When the complainant tried to rescue his aunts, Ashok held him down while the petitioner Gurpreet Singh struck him on his head with a stick. The complainant and his aunts were finally rescued by the complainant's father and one Jaspal Singh from the clutches of the accused. Resultantly, the instant FIR came to be registered against the present petitioner and six other persons.

4. The learned trial Court, after assessing the material on record, charged all the accused for committing an offence under Sections 148, 323, 506 read with Section 149 IPC, to which they pleaded not guilty and claimed trial. Following trial, all accused were held guilty vide judgement dated 24.02.2015 and were awarded the following sentence vide order dated 27.02.2015 by the learned trial Court: -

Offence	Sentence
Section 148 IPC	Rigorous imprisonment of 2 years and a fine of Rs. 1000/- each, in default of which simple imprisonment for six months.
Section 149 IPC	Rigorous imprisonment of 2 years and a fine of Rs. 1000/- each, in default of which simple imprisonment for six months
Section 323 IPC	Rigorous imprisonment of 1 year and a fine of Rs. 500/- each, in default of which simple imprisonment for three months.
Section 506 IPC	Rigorous imprisonment of 2 years and a fine of Rs. 1000/- each, in default of which simple imprisonment for six months.

5. Aggrieved by the same, the convicts preferred an appeal before the lower Appellate Court, which was allowed vide judgment dated 07.02.2017. While conviction under Section 149 IPC was set aside as it is not a substantive offence, whereas conviction under Sections 148, 323 and 506 IPC was upheld. With respect to the order of quantum of sentence, the lower Appellate Court modified the sentence for six of the eight convicts namely Gona, Gyani, Raju, Rami, Surjeet Kaur and Ashok, and ordered for their release on probation of good conduct for a period of one year under Section 4(1) of the Probation of Offenders Act, whereas sentence of the present petitioners was upheld.

CONTENTIONS

6. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction and order of sentence dated 24.02.2015/27.02.2015 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the release of the petitioners on probation of good conduct.

7. Further, it is contented by the learned counsel for the petitioners that all the other convicts in this case have been released on probation. Additionally, according to the medico-legal report, all injuries have been declared simple in nature. Moreover, the complainant, who in his complaint stated that he was struck on the head with a stick by one of the petitioners has now turned hostile. Lastly, the counsel urged the Court to take a lenient view of the matter as the petitioners have reformed and intend to live their lives as law-abiding citizens.

8. Learned State counsel has no objection to the restricted prayer of the petitioners, so long as the conviction of both the petitioners is upheld.

OBSERVATIONS AND ANALYSIS

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

10. 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 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.”

11. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Fatehabad awarding a sentence of 2 years under Sections 148 and 506 IPC and a sentence of 1 year under Section 323 IPC to the petitioners is upheld, however, having regard to the fact that the petitioners have 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 petitioners, they are ordered to be released on probation of good conduct on furnishing a personal bond of Rs. 20,000/- each with a surety each of 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 petitioners shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period.

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It is further directed that if the petitioners fail to comply with the said directions or commit breach of the undertaking given by them, they 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

24.01.2024
Ajay Goswami

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