

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

CRR-825-2017

Date of decision: 12.11.2024

Jasbir Singh

...Petitioner

Versus

Shiv Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Rajesh Duhan, Advocate for respondents No.1 to 3.

Mr. J.S. Dhaliwal, AAG, Punjab.
For respondent No.4-State.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioner/complainant against the judgment dated 13.12.2016 passed by the Court of Additional Sessions Judge, Patiala vide which the appeal filed by the accused/respondents No.1 to 3 against the judgment and order dated 23.02.2016 passed by the Court of Judicial Magistrate Ist Class, Patiala whereby respondents No.1 to 3 were convicted and sentenced to imprisonment, was disposed of while upholding the judgment of conviction dated 23.02.2016, with modification regarding order of sentence, while releasing the accused/respondents No.1 to 3 on probation.

2. The case of the prosecution in brief is that on 14.03.2010, police recorded statement of complainant Jasbir Singh to the effect that on 13.03.2010 at about 8 PM, he was standing outside his house. His nephew



Ravinder Singh was strolling on the road along with his dog. Suddenly, the dog went inside the house of his neighbour Shiv Shanker and on this Ravinder Singh entered the house of Shiv Shanker to bring back his dog. Anand son of Shiv Shanker and his servant entered into altercation with Ravinder Singh. However, with the intervention of the inhabitants of the locality the matter was settled. At about 10 PM, complainant Jasbir Singh was present in his house and he heard loud noises and he came out of his house and went towards the house of Rajbir Singh and while entering the said house, he saw Sonu son of Karnail Singh, Shiv Shanker and his son Anand along with 14/15 unidentified persons, having different weapons, were beating Rajbir Singh brother of the complainant and Ravinder Singh son of Rajbir Singh. The complainant tried to intervene on which Sonu hit base ball bat on his head. Shiv Shanker gave stick blow on his head, one another blow of base ball bat given by Sonu, hit on head of the complainant. Then Anand gave stick blows on right thigh and right knee of complainant. The complainant, Rajbir Singh and Ravinder Singh raised alarm which attracted the neighbors who reached the spot. On this, the accused persons fled away from there with their respective weapons after extending threats to the complainant and his brother. All the injured including the complainant were taken to DMW Hospital from where they were shifted to Rajindra Hospital, Patiala. On the basis of aforesaid statement of complainant, FIR was registered in this case. The accused persons were arrested. On completion of investigation, challan was presented against the accused/respondents No.1 to 3 namely Shiv Singh, Anand Singh @ Anu and Sonu.

3. A *prima facie* case being made out, the accused were charged under Sections 323, 325, 452, 458, 506 read with Section 149 IPC and under Section 148 IPC to which they pleaded not guilty and claimed trial.

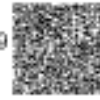
4. The trial Court vide its judgment and order dated 23.02.2016 convicted respondents No.1 to 3 under Sections 452, 323, 506 read with Section 149 IPC and under Section 148 IPC and they were sentenced to imprisonment as follows:-

Section	Sentence	Fine
323 read with Section 149 IPC	RI for six months each	Nil
Section 452 read with Section 149 IPC	RI for three years each	Fine of Rs.1000/- and in default of payment of fine to further undergo SI for one month each.
Section 506 read with Section 149 IPC	RI for one year each	Nil
Section 148 IPC	RI for one year each	Nil

All the sentences were ordered to be run concurrently.

5. Being aggrieved, respondents No.1 to 3 filed criminal appeal, which was disposed of by the Court of Additional Sessions Judge, Patiala vide judgment dated 13.12.2016 while upholding their conviction, however, respondents No.1 to 3 were ordered to be released on probation, subject to their furnishing requisite probation bonds with undertaking to be of good behavior for a period of one year and to appear and receive sentence, if so called upon during the said period. The fine if any deposited was directed to be converted into cost of litigation.

6. Aggrieved by the aforesaid judgment dated 13.12.2016 passed by the Court of Additional Sessions Judge, Patiala, petitioner/complainant



has filed the present revision petition.

7. I have heard the counsel for the petitioner and the State counsel.

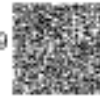
8. The counsel for the petitioner has argued that no ground was made out to release the accused persons on probation, as they caused injuries to the complainant party and also committed offence of trespass and further intimidated the complainant party. The accused persons faced grave charges and before passing the order of probation the Court of Additional Sessions Judge was duty bound to consider the report of probation officer concerned, as is required under law. However, in the present case, no such report of probation officer was called by the appellate Court. Further, while granting 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 offender.

10. I have considered the submissions made by counsel for the petitioner and the State counsel.

11. In the present case, respondents No.1 to 3 were convicted and sentenced to imprisonment under Sections 323, 452 and 506 read with Section 149 IPC and under Section 148 IPC by the learned trial Court vide judgment and order dated 23.02.2016. Subsequently, respondents No.1 to 3 were given concession of probation by the Court of Additional Sessions Judge, Patiala vide judgment dated 13.12.2016.

12. It is not disputed that all the three accused were more than 21 years of age. The offences under which they were convicted provided the



maximum sentence of 7 years. The accused being not previous convicts, were having statutory right to claim the concession under provision of Section 360 Cr.P.C, as per mandate of Section 361 Cr.P.C. When the Court is equally empowered to release a convict on probation under Section 360 Cr.P.C. and Section 4 of the Probation of Offenders Act, 1958 (in short 'Act of 1958'), the harmonious construction would require that report under Section 4(2) of the Act of 1958, would not be mandatory where provision of Section 360 Cr.P.C could also be applicable. Further, a statutory provision which is beneficial to the accused should be made applicable. In the present case, in light of the 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 power and gave benefit of probation to the accused persons. Thus, 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 granted 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 respondents No.1 to 3 caused injuries to complainant Jasbir Singh and Rajbir Singh, interest of justice demands that the said two injured persons are entitled to get reasonable compensation from the accused persons. Respondents No.1 to 3 are hereby directed to pay compensation worth Rs.8,000/- each to both the injured persons, within a period of next three months.

14. Except for the aforesaid modification, no case for interference



in the present petition is made out and present petition deserves to be dismissed.

15. The present revision petition is hereby dismissed, subject to aforesaid modification.

16. Trial Court concerned is to ensure that aforesaid amount of compensation be recovered from respondents No.1 to 3 namely Shiv Singh, Anand Singh @ Anu and Sonu son of Karnail Singh and thereafter, disbursed to injured Jasbir Singh and Rajbir Singh. The entire exercise is to be completed within next four months and the compliance report is to be submitted with the registry of this Court.

12.11.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No