



227-2

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

**CRR No.2685-2018**

**Date of Decision:-02.02.2024**

HARDEEP LAL

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

**CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.**

Present:- Mr. Ramesh Sharma, Advocate  
for the petitioner.

Mr. Harpreet Singh, Addl. AG, Punjab.

\*\*\*\*\*

**SANJIV BERRY, J.(ORAL)**

1. By way of the present revision petition, the petitioner has challenged the impugned judgment dated 07.05.2018 passed by learned Sessions Judge, Jalandhar, whereby, while dismissing the appeal filed by the petitioner seeking enhancement of the sentence awarded to the private respondents by learned Judicial Magistrate First Class, Jalandhar vide judgment of conviction and order of sentence dated 28.08.2017, the learned Appellate Court upheld the conviction, however, modified the sentence awarded to the private respondents and released them on probation under Section 4 (1) of the Probation of Offenders Act, 1958.

2. Brief facts of the case are that on 27.04.2011, at about 5:00 PM



petitioner was present in the village where construction of a public street was going on at that time, number of persons were present including Gurcharan Dass, Sarpanch alongwith other panchayat members and at that time, accused Ram Murti, Balwinder Kaur, Rajesh Kumar, Ajay Kumar, Mohan Lal, Balkar Chand were also present there and all of them were creating obstacles regarding the construction of the public street. Respondent No.2 Ram Murti who was armed with datar, gave a blow to the petitioner/complainant which hit on the left hand and respondent No.3 Balwinder Kaur gave a brick bat blow which hit on the head of Sheela, petitioner went inside the house but respondents No.3-Rajesh Kumar and No.4-Ajay Kumar armed with sotras injured the petitioner/complainant and the other accused were also present there along with weapons. On raising hue and cry, people gathered at the spot and all the accused fled away. Accordingly, FIR No. 55 dated 04.05.2011 was registered under Section 452, 323, 324, 148, 149 IPC at Police Station Kartarpur, District Jalandhar. After completion of investigation, challan was presented in Court and charges were framed. The learned trial Court, after hearing both the parties, vide impugned judgment dated 28.08.2017 convicted respondent No.2 to 5 only for offence under Section 323, 324, 34 IPC and sentenced them rigorous imprisonment for a period of one year along with fine and acquitted Mohan Lal, Balkar Chand and Som Lal.

3. Feeling aggrieved, the petitioner filed an appeal against the aforesaid judgment of conviction and order of sentence, however, the learned Sessions Judge, Jalandhar vide judgment dated 07.05.2018,



dismissed the appeal and released the private respondents on probation under Section 4(1) of the Probation of Offenders Act, 1958. Hence the revision petition.

4. It is *inter alia* contended by learned counsel for the petitioner that the learned Appellate Court while dismissing the appeal filed by the petitioner had wrongly released the private respondents on probation without considering their background, as respondent No.2 was involved in one FIR bearing No.176 dated 08.11.2015 registered under Sections 420 and 120-B IPC at Police Station Garh Shankar, District Hoshiarpur and has been convicted in two complaints filed under Section 138 of the Negotiable Instruments Act, 1881. Similarly, respondent No.4 was also involved in one FIR bearing No.41 dated 09.04.2015 registered under Sections 447, 506, 511, 427 IPC at Police Station Kartarpur, District Jalandhar. Moreover, the Appellate Court did not seek any report from any competent authority to check whether the private respondents are having good character in society or not and simply on the basis of the request made by them, considered the same and ordered to release them on probation of good conduct under Section 4(1) of the Probation of Offenders Act, 1958. He thus, prays that the impugned judgment suffers from grave injustice and liable to be modified.

5. *Per contra*, learned counsel for the State has opposed the petition on the ground that there is no perversity or illegality in the impugned judgment, therefore does not warrant any interference. Hence prays for dismissal of the petition.

6. I have heard learned counsel for the parties and perused the



material on record.

7. Before proceeding further, it is apposite to refer to Section 4(i) of the Probation of Offenders Act, 1958, which is reproduced as under:-

*“(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour.”*

8. A careful reading of the aforesaid Section would indicate that there is no specific bar not to grant the concession to any offender with previous criminal history. Moreover, mere registration of an FIR on a person would not tantamount to proof of guilt or establish criminal liability unless substantiated by evidence during investigation or until the conclusion of trial. So far as the conviction in complaint case filed under Section 138 of the Negotiable Instruments Act is concerned, the same would have no bearing on the present case, as the FIR in question has been registered under Sections 452, 323, 324, 148, and 149 of the IPC, which pertain to entirely different offences. Furthermore, there is no mandatory requirement for the Court to call for a report from any competent authority prior to granting the benefit of probation to an offender. The Court, while granting the concession of probation under Section 4 (i) of the Probation of Offenders Act, 1958, has to keep in mind the nature of the offence, the circumstances in which it was



committed, the character of the offender, and the likelihood of the offender's rehabilitation. Therefore, this Court finds no illegality or perversity in the impugned judgment that would warrant any interference by this Court.

9. Resultantly, finding no merit in the present petition, the same is hereby dismissed.

(SANJIV BERRY)  
JUDGE

02.02.2024  
Gyan

- |     |                            |        |
|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |