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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1245-2024 (O&M)
Date of decision: 02.08.2024

Rohtash

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurmail Singh Duhan, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 27.05.2024 passed by learned Additional Sessions Judge, Kaithal, vide which appeal filed by the petitioner against the judgment of conviction dated 26.05.2022 and the order of sentence dated 27.05.2022 passed by learned Chief Judicial Magistrate, Kaithal, in FIR No.667 dated 19.11.2018 under Sections 323, 354, 452 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Kaithal, convicting him under Sections 323, 354, 452 of IPC and sentencing to undergo rigorous imprisonment for a maximum period of two years and to pay a fine of Rs.1,000/- along with



default mechanism, was partly allowed and the sentence of rigorous imprisonment of two years was reduced to rigorous imprisonment of one year.

2. Brief facts of the case are that on 19.11.2018, an information was received in Police Post Anaj Mandi to the effect that some persons had apprehended one person, who had entered into house of one person and HC Baljeet Singh along with HC Jai Pal reached at the spot and from there, they brought the said person with them to the police post. The persons gathered at the spot, told him that the said person entered into house of 'V', who along with one Manoj Kumar, came to Police Post and presented a complaint to the effect that at about 06.00 a.m., the petitioner entered his house by jumping over the gate, when his wife, after taking bath, was going towards the room and with bad intention, the petitioner tried to catch hold of her from behind. On hearing the noise raised by his wife, he tried to catch hold the petitioner but he attacked upon him and ran away. The petitioner was chased and he was apprehended by 'V' along with Suresh, Ashok etc. from some distance and was handed over to the police.

3. Learned counsel for the petitioner submits that the judgment passed by learned trial Court is based on conjectures and surmises. It is further submitted that the petitioner does not have any criminal antecedents and has old parents and family to look after. Learned trial Court failed to appreciate the fact that there are material contradictions in the testimonies of



the complainant and the eyewitnesses and there is delay in lodging the FIR (*supra*). He is facing trial for the last 06 years and therefore, learned trial Court ought to have considered the case of the petitioner for releasing him on probation under Section 361 Cr.P.C read with Sections 3 & 4 of the Probation of Offenders Act, 1958.

4. *Per contra*, learned State counsel supports the judgment passed by learned trial Court, while contending that the petitioner had misused and abused the process of law by giving false evidence on oath before the Court and therefore, he was rightly convicted and sentenced by learned Court below.

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

6. 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.....”

7. 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.”

8. In view of the aforesaid facts and circumstances, judgments passed by learned Courts below are upheld, however, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of 02 months and 8 days out of total sentence of one year R.I., reduced by learned Additional Sessions Judge, Kaithal, from two years R.I. awarded by learned Chief Judicial Magistrate, Kaithal, this Court is inclined to give him the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, it is directed that he will be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- 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. The petitioner will remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commit breach of the undertaking given by him, he will be called upon to undergo the sentence of one year R.I. reduced by learned Additional Sessions Judge, Kaithal, from rigorous imprisonment of two years, which was awarded by learned trial Court.

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.

02.08.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

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