

CRR-2252-2022(O&M) 1

248 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2252-2022(O&M)
Date of Decision: 20.03.2024

SONU ALIAS SURINDER KUMAR
.....Petitioner

Versus

STATE OF HARYANA AND OTHERS
.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Arora, Advocate
for the petitioner

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned judgment dated 16.07.2021 passed by learned Additional Sessions Judge, Panipat, whereby, the conviction of respondent no. 2 to 5 was upheld in FIR No.278 dated 08.07.2014 registered under Sections 148, 149, 323, 325, 452 and 506 of IPC at Police Station- Matlauda, Panipat (Haryana) but the order of sentence awarded by learned Judicial Magistrate Ist Class, Panipat to respondent no. 2 to 5 was modified and the said respondents were released on probation under Section 4 of the Probation of Offenders Act, 1958 read with Section 360 of Cr.P.C. for a period of 6 months and were also ordered to pay compensation of Rs.3,000/- each, i.e., Rs.10,000/- to injured Kitabo and Rs.2,000/- to the present petitioner.

Respondent No. 2 to 5 were sentenced as under:-

Under Section	Sentence (concurrently)
148 r/w 149	R.I for 6 months along with a fine of Rs.100/- each

323 r/w 149	R.I for 6 months along with a fine of Rs.100/- each
325 r/w 149	R.I for 1 year along with a fine of Rs.500/- each
452 r/w 149	R.I for 6 months along with a fine of Rs.100/- each
506 r/w 149	R.I for 6 months along with a fine of Rs.100/- each
Default	In default of fine, S.I. for 2 months.

2. Allegedly, on 08.07.2014, the petitioner-complainant Sonu gave an application along with MLR of Kitabo to the concerned police officials wherein it was stated that on the same day, while he was sitting at home and his mother was cooking food, his aunt Shakuntala (respondent no.5) was setting fire to the waste outside their house. When smoke arose out of the fire, the petitioner tried to stop her aunt from the doing the said act but she started abusing him. On commotion, respondent no. 2 to 4 along with other accused came in front of the house of the petitioner and forcibly entered inside while carrying deadly weapons like *Gandasa*, wooden log and started beating the petitioner and his mother and caused grievous injuries to them. When the people from surroundings gathered, the aforesaid assailants fled away from the place of occurrence along with their weapons. On the basis of the above said application, the FIR (supra) was registered. Thereafter, necessary investigation was carried out. On 21.08.2014, the bed head ticket of injured Kitabo was taken from the concerned Hospital upon which Section 325 of IPC was added. Thereafter, the respondent no.2 to 5 were arrested and after completion of necessary formalities of investigation, challan under Section 173 Cr.P.C. was presented before the learned trial Court and they were charge-sheeted accordingly . Ultimately, the learned trial Court convicted and sentenced the private respondents as mentioned above.

3. Thereafter, the private respondents preferred an appeal before the learned Additional Sessions Judge, Panipat where the said Court upheld the conviction of the private respondents but modified the order of sentence and ordered the said respondents to be released on probation under Section 4 of the Probation of Offenders Act, 1958 read with Section 360 of Cr.P.C., on their entering into probation bonds in the sum of Rs.10,000/- with one surety each in the like amount, without supervision, for six months and to keep and be of good behaviour in the meantime. The private respondents were further directed to pay a compensation of Rs.3,000/- each and out of the said compensation, Rs.10,000/- were to be paid to injured Kitabo and Rs.2,000/- to the petitioner-complainant Sonu.

4. Aggrieved by the order passed by learned Additional Sessions Judge, Panipat, the petitioner-complainant has approached this Court by way of the present revision petition on the grounds that the lower Appellate Court has wrongly shown leniency ignoring the seriousness of the offence.

5. Learned counsel for the petitioner contends that the lower Appellate Court did not appreciate the fact that some of the other co-accused had already been given the benefit of probation by the learned trial Court and thus, there was no reason for the private respondents to have been released on probation given the seriousness of the offences committed by them. He further contends that the lower Appellate Court also did not pay heed to the fact that grievous injuries were caused by the private respondents including fracture of left ulna of the body of Kitabo as duly proved by the medical evidence on record.

6. I have heard learned counsel for the parties and perused the paper book with their able assistance. There is no such evidence on record which shows that respondent no.2 to 5 are beyond reform and they have already faced a protracted trial for the last 12 years and they have not been involved in any other criminal offences. This Court finds that the chance given to the said respondents to reform and rehabilitate is very much in interest of justice.

7. Pertinently, 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.....”

8. 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.”

9. In view of the above, this Court is inclined to uphold the judgment dated 16.07.2021 passed by learned Additional Sessions Judge, Panipat, whereby, the conviction of respondent no. 2 to 5 was upheld in FIR No.278 dated 08.07.2014 registered under Sections 148, 149, 323, 325, 452 and 506 of IPC at Police Station- Matlauda, Panipat (Haryana) but the order of sentence awarded by learned Judicial Magistrate Ist Class, Panipat to respondent no. 2 to 5 was modified and the said respondents were released on probation under Section 4 of the Probation of Offenders Act, 1958 read with Section 360 of Cr.P.C. for a period of 6 months.

10. Hence, the instant petition stands dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

20.03.2024

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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