

**CRR-5072-2018 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.245****Case No. : CRR-5072-2018 (O&M)****Decided On : October 14, 2024**

Rajesh Kumar

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. R. S. Bhatta, DAG, Punjab.

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GURBIR SINGH, J. :

1. **CRM-24946-2019** : This is application under Section 482 Cr.P.C. for placing on record the final order dated 24.02.2016, passed in Inquiry, as Annexure A-1. For the reasons mentioned in the application, the same is allowed and Annexure A-1 is ordered to be taken on record, subject to all just exceptions.

2. **Main Case** : Through the present revision petition, the petitioner has challenged the orders dated 22.05.2017 and 06.09.2018, passed by learned Judicial Magistrate Ist Class, Sangrur (for brevity – Trial Court) and learned Additional Sessions Judge, Sangrur (for brevity – Appellate Court), being based on surmises and conjectures and therefore, not sustainable in the

3. Brief facts of the case are that vide orders passed by Director, Health and Family Welfare, Punjab, Chandigarh, the petitioner, who was working as Junior Assistant, was transferred to Hoshiarpur and he was relieved from duty on 01.10.2014 (AN). However, on the very next day i.e. 02.10.2014, he came to the office and while forcibly taking the attendance register, marked his presence after making cutting in the entry regarding relieving him. He also used filthy language and threatened one Senior Assistant namely Rakesh Kumar, who made complaint against the petitioner. On the basis of said complaint, FIR under Section 353, 186 and 506 IPC was registered against the petitioner and he was arrested.

4. After completion of investigation, challan was presented against the petitioner. The learned Trial Court, after appreciating the evidence on record and hearing the arguments advanced before it, vide judgment dated 22.05.2017, sentenced the petitioner as under :-

<u>S. No.</u>	<u>Name of accused</u>	<u>Under Section</u>	<u>Sentence</u>
1.	Rajesh Kumar	353 of IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo RI for one month.
		186 of IPC	To undergo rigorous imprisonment for a period of three months.
		506 of IPC	To undergo rigorous imprisonment for a period of six months.

However, all the sentences were ordered to run concurrently.



5. The petitioner preferred appeal against the aforesaid judgment passed by learned Trial Court. Though the said appeal was dismissed by learned Appellate Court but the petitioner was ordered to be released on probation. The operative part of the order passed by the learned Appellate Court reads as under:-

“15.Mere fact that no independent witness was joined, the case of the prosecution cannot be thrown aside when the prosecution is able to prove the guilt of the accused beyond shadow of reasonable doubt on the basis of cogent, convincing and reliable evidence available on the record. So, prosecution has been able to prove its case beyond shadow of reasons doubt against accused Rajesh Kumar. As such appeal stands dismissed against Rajesh Kumar.

16. Regarding sentence part, the appellant has submitted that he is first offender and is the sole bread winner in his family. A lenient view be taken against him and he may be released on probation.

17. Keeping in view the fact that appellant is first offender and appellant can be given chance to reform himself so that he can become better citizen of the society, this Court is of the view that it is a fit case where the appellant should be given the benefit of probation. Accordingly, the appellant is ordered to be released on probation for a period of 6 months U/S 4 (1) of Probation Offender Act 1958 on his furnishing probation bonds in the sum of Rs.2,000/-with one surety of like amount, with an undertaking to keep peace and be of good behaviour during the said period

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and not to commit any offence during this period. He is further directed to appear in the Court as and when directed to receive the sentence of imprisonment. The appeal is accordingly disposed of. Case property, if any be disposed of under rules after the expiry of period of appeal or revision or the result thereof. Record of the Trial Court be returned along with copy of this judgment and appeal file be consigned to the record room.”

6. Learned counsel for the petitioner has submitted that the order of conviction is causing serious effect on the career of the petitioner as the petitioner has already been acquitted in the departmental inquiry vide order dated 24.02.2016 (Annexure A-1). Otherwise also, the complainant cooked up false story in order to implicate the petitioner and harass him as there is delay in lodging the FIR. The alleged occurrence is of 02.10.2014 but the complainant moved application on 07.10.2014. No offence under Section 353 IPC is made out against the petitioner but the said fact has not been taken into consideration by both the Courts below.

7. In a judgment dated 18.09.2017, titled Rupinder Singh and another vs. State of Punjab – CRR-4307-2016, passed by a Co-ordinate Bench of this Court, reliance has been placed on **Paramjit Singh vs. State of Haryana** reported as **2011 (2) RCR (Criminal) 855**, wherein, while allowing a criminal appeal filed by the accused person, the Court has granted him benefit of Section 4 of the Probation of Offenders Act and has released the accused on probation, with the conditions that he shall execute a bond

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for good behaviour for a period of two years and he shall be subject to the supervision of the Probation Officer, subject to the conditions laid down in Probation of Offenders Act. It was also held that since the accused was released on probation, the same may not effect on his service career, in view of Section 12 of the Probation of the Offenders Act.

8. Learned counsel for the petitioner has further submitted that as per judgment dated 06.09.2018, passed by the learned Appellate Court vide which, the petitioner was ordered to be released on probation, the said period has already expired and during the intervening period, the petitioner has neither misused the concession of probation nor has involved in any other such a similar case.

9. Learned counsel for the petitioner has further submitted that the petitioner has already furnished the probation bond as per the directions given in the judgment dated 06.09.2018, and, therefore, he should be granted benefit, in view of Section 12 of the Probation of Offenders Act.

10. Considering the limited prayer made by learned counsel for the petitioner that the judgment dated 06.09.2018, granting probation to the petitioner, may not effect his service career, it is clarified that the petitioner, who was released on probation and the period of probation has already been over and subsequently, the petitioner was not found involved in any other case or misusing the concession of probation, the judgment dated 06.09.2018 may not effect the service career of the petitioner, in view of Section 12 of the Probation of Offenders Act.

11. The present revision petition stands disposed of in the above terms.
12. Pending applications, if any, shall stand disposed of along with this judgment.

October 14, 2024
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>