



CRR-3309-2019 (O&amp;M)

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921 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR-3309-2019 (O&M)  
Date of Decision: 27.09.2024

RAHUL MALHOTRA

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Arora, Advocate  
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

1. The present revision is preferred against the judgment dated 26.11.2019 passed by the learned Additional Sessions Judge, Tarn Taran whereby the judgment of conviction and order of sentence dated 08.08.2016 passed by the Judicial Magistrate Ist Class, Patti, District Tarn Taran has been upheld.

2. The fact as they emerge out of records of the case are that criminal law in this case happened to be set into motion on the basis of statement of the complainant Kirna Rani wife of Shri Kamal Kumar who in her statement dated 25.6.2012 made allegations against the accused that on 21.06.2012 at about 8.00 AM, she alongwith her minor son Deepak Kumar was present at home and her husband had gone to Temple of Mata Dull for offering prayers and flag to the Goddess, petitioner-convict Rahul Malhotra who is son of her brother-in-

law (Jeth) co-accused Hari Dass came to her house and after making forcible entry in to the house, he started beating the complainant with the help of Thapi' (a wooden stick meant for washing clothes). When her son came forward to her rescue, the said petitioner-convict gave fist blows to him also upon which her son raised hue and cry, on which the accused fled the scene after tearing her clothes. This, according to version of the complainant, was done by the petitioner-convict Rahul Malhotra in furtherance of criminal conspiracy hatched by both the accused persons. The complainant also produced her medico legal examination report wherein four injuries were reported to have been found on the person of the complainant and accordingly on the basis of said statement, formal FIR(supra) in the case was registered.

3. The learned trial Court, after assessing the material on record, charged the accused-petitioner for committing an offence under Sections 452, 323, 427, 354 of Indian Penal Code, to which he pleaded not guilty and claimed trial. Following trial, the petitioner was held guilty vide judgement dated 08.08.2016 and was awarded the following sentence vide order of even date of quantum of sentence by the learned trial Court: -

| Offence            | Sentence                                                                                                                                               |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 452 of IPC | Rigorous imprisonment for one year with fine of Rs. 2,000/- and in default of payment of fine, further awarded rigorous imprisonment for three months. |
| Section 354 of IPC | Rigorous imprisonment for one year with fine of Rs. 500/- and in default of payment of fine, further awarded rigorous imprisonment for one month.      |
| Section 323 of IPC | Rigorous imprisonment for one year with fine of Rs. 500/- and in default of payment of fine, further awarded rigorous imprisonment for one month.      |



4. Aggrieved by the same, the convict preferred an appeal before the lower Appellate Court, which was dismissed vide judgment dated 26.11.2019.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction and order of sentence dated 08.08.2016 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the release of the petitioner on probation of good conduct and urged the Court to take a lenient view of the matter as the petitioner has reformed and intend to live his life as law-abiding citizen.

6. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellant Court and as such, he does not deserve any leniency. However, he could not controvert the fact that the petitioner is not involved in any other case.

7. I have heard learned counsel for the parties and perused the paper book with their able assistance.

8. 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**



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**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.....”*

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 aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Tarn Tarn awarding a substantive sentence of one year under Sections 452, 354 and 323 of IPC to the petitioner is upheld, however, having regard to the fact that the petitioner has no criminal antecedents, this court is inclined to give them the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, he is ordered to be released

on probation of good conduct on furnishing a personal bond of Rs. 10,000/- each with a surety each 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 the concerned trial court within a period of two weeks. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fail to comply with the said directions or commit breach of the undertaking given by him, he shall be called upon to undergo the sentence imposed upon him by the learned Additional Sessions Judge, Tarn Taran.

10. With the aforesaid directions, the instant petitions stand disposed of.

(HARPREET SINGH BRAR)  
JUDGE

27.09.2024  
Ajay Goswami

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |