

CRR-12192-2018

244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-12192-2018

Date of Decision: 20.02.2024

Krishna Dutt

.....Petitioner

Versus

Kuldeep and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Vikas Bharadwaj, AAG, Haryana

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision is preferred against judgment dated 15.09.2018 passed by Additional Sessions Judge, Jind vide which the judgment of conviction dated 21.02.2018 passed by learned Judicial Magistrate Ist Class, Narwana in FIR No. 252 dated 30.12.2013 under Sections 323, 341, 506, 325, 34 of the IPC registered at Police Station Garhi, was upheld and the order of sentence was modified by granting the benefit of probation to the respondents-accused.

2. The facts, in brief, are that on 30.12.2013, around 7:00 AM, the petitioner-complainant was going to his house while carrying two buckets of milk when he saw respondents-accused Kuldeep armed with *taangli*, Surrender @ Gikki armed with *lathi*, Ram Parsad armed with *danda* and Rajender. Kuldeep raised lalkara following which the respondents-accused started beating the petitioner. Kuldeep gave a *taangli* blow on the head of the petitioner, Surrender gave a *lathi* blow on his back while Ram Parsad gave a

danda blow on his left leg and knee. The petitioner raised hue and cry, hearing which many people from the village gathered at the spot, causing the accused to flee from the spot while threatening to kill the petitioner.

3. On finding a prima facie case under Sections 323, 341, 325, 506 and 34 of Indian Penal Code, charges were framed, to which the accused pleaded not guilty and claimed trial. The prosecution examined 9 witnesses to prove its case. All the incriminating material was put to the accused in their respective statements recorded under Section 313 Cr.P.C. wherein they pleaded false implication and claimed innocence but did not lead any evidence in their defence. On assessing all the material available on record, the learned trial Court convicted the respondents-accused vide judgment dated 21.02.2018 and sentenced them to undergo rigorous imprisonment for a period of 2 years while declining their prayer for release on probation. Aggrieved by the same, the respondents preferred an appeal before the learned lower Appellate Court which was partly allowed as the conviction was upheld but the respondents were ordered to be released on probation vide judgment dated 15.09.2018.

4. Learned counsel for the petitioner assails the impugned judgment on the ground that no reasons have been mentioned for discarding the evidence rendered by the prosecution witnesses and contends that the learned Courts below have erred in not awarding the maximum punishment prescribed by law for the offences committed by the respondents-accused. The respondents had brutally beaten the petitioner and their individual roles in committing the offence along with their names are duly established in the FIR and the statements rendered by each of the witnesses. Therefore, respondents-accused do not deserve the benefit of probation and must be sentenced by awarding the

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maximum punishment as prescribed by law. Furthermore, the petitioner was awarded compensation of Rs. 10,000/-, which is on the lower side and deserves to be enhanced.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the respondents-accused do not have any criminal antecedents. Further, they are the sole breadwinners of their respective families. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society. A Co-ordinate bench of this Court in **Nasri v. State of Haryana 2023(3) Law Herald 2203**, speaking through Justice Arun Monga, made the following observations:

“11.2. Objectives and principles of criminal law as envisioned in the provision ibid, apart from deterrence against committing crime against society, are inter-alia focused on the reformation of offenders, which inheres the concept of probation. Modern criminal justice system often aims to balance punishment with rehabilitation, emphasizing the potential for positive change in individuals who have committed crime. The goal of criminal law extends beyond mere punishment. While punishment serves to deter and hold individuals accountable for their actions, there is a growing recognition of the importance of addressing the underlying factors that contribute to criminal behaviour. This perspective emphasizes the potentials of offenders to reform and reintegrate into society as law-abiding citizens. Probation is one of the mechanisms used to achieve this reformation objective. In certain cases, certain offenders may be asked to remain under community supervision rather than being incarcerated. During such probation period, the offender can be put to follow certain conditions, such as regular reporting to a probation officer, participating in counselling or treatment programs and maintaining employment or education. The aim is to provide support, guidance and opportunities for the offender and to

address the root causes of their criminal behaviour and develop positive life skills. Close monitoring and guidance provided during probation can help the offender make positive changes in their life and reduce the likelihood of re offending.”

6. In view of the facts and circumstances of the case, this Court finds no perversity or illegality in findings recorded by the learned Courts below which warrants interference by this Court. Hence, the instant revision petition stands dismissed.

20.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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