

**CRR-447-2023****1****282****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-447-2023****Date of Decision: 21.01.2025****JARNAIL SINGH****...Petitioner****Versus****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Nisha Sihag, Advocate
for the petitioner

Mr. Rishabh Singla, AAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. The present revision petition is preferred against the judgment dated 12.12.2022 passed by learned Sessions Judge, Fatehgarh Sahib whereby the judgment of conviction dated 28.04.2022 passed by learned Judicial Magistrate Ist Class, Amloh in criminal complaint no. COMI/395/2013 filed under Sections 307, 326, 325, 323, 452, 354, 148, 149, 506 and 34 of Indian Penal Code was upheld and order of sentence was modified to grant the concession of probation to the accused persons.

2. In brief the facts of the case of the complainant are that complainant has filed a complaint on the allegations that on 13.11.2012 in the Diwali night, children of complainant were bursting crackers. Harbans Singh neighbour of the complainant raised objections regarding burning crackers. Due to this reason, complainant stopped his children from bursting crackers. On the evening of Diwali, Avtar Singh cousin of the complainant had come to the house of complainant and children of complainant namely Lakhwinder Singh, Manpreet Singh went to the house of Avtar Singh. When children of complainant were

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returning from the house of Avtar Singh, then accused Gurcharan Singh and his son Gandu used filthy language against the children of complainant and threatened to kill them. In this regard complainant had given an intimation in police station Bugga Kalan. On 14.11.2012 at about 5:30 pm complainant, his brother Avtar Singh, his wife and children were present in their house. Then accused entered into the house of complainant along with weapons. Accused Jassi was armed with stick, accused Balli was armed with stick, accused Pal Singh and Rajpal Kaur were armed with *dandas*. Jinder Singh, Kulwinder singh and Rani were armed with *dangs* and all the accused persons attacked the complainant and his family members after forcibly entering into the house of complainant. Accused Jinder Singh and Kulwinder Singh raised *lalkara* that they should be taught a lesson for complaining against them in the police station. Accused started abusing the family of complainant. When complainant tried to stop accused for doing so, then accused Jassi gave stick blow on the complainant, which hit on the mouth of complainant. Accused Balli gave stick blow on the person of complainant, which hit on the left cheek of complainant and due to this, jaw of complainant was broken. Accused Gandu gave *danda* blow on the person of complainant which hit on the shoulder of complainant and complainant fell down. When cousin of complainant Surjit Singh tried to rescue complainant, then accused Jinder Singh and accused Gandu gave *dang* blow on the person of Surjit Singh. Due to which, he suffered injuries on his head and blood started oozing and he fell down. When wife of complainant tried to stop accused from attacking on complainant and Surjit Singh, then accused Kulwinder Singh and Jinder Singh caught hand of wife of complainant and tried to outrage her modesty. Accused Rani and Rajpal Kaur gave *dang* blow on the wife of complainant, which hit on left little finger of wife of complainant and

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due to this, finger of wife of complainant was broken. Rajpal Kaur gave dang blow on the back of wife of complainant, due to which she fell down. When nephew of complainant Manpreet Singh tried to rescue them, then accused Gandu gave dang blow on the leg of Manpreet Singh and accused Jinder Singh gave stick blow on the leg of Manpreet Singh and due to this leg of Manpreet Singh was broken. They raised alarm, then brother of complainant namely Daljit Singh came there. On seeing the gathering, accused persons ran away along with their respective weapons. Daljit Singh got admitted complainant, Surjit Singh, Manpreet Singh and Manpreet Kaur in Civil Hospital Amloh, from where they were referred to Civil Hospital Fatehgarh Sahib and said hospital again referred the complainant to Dental Hospital Patiala and Dental Hospital Patiala referred the complainant to Rajindra Hospital Patiala and from where the complainant was referred to PGI Chandigarh. Matter was reported to the police but police had not taken any action. Hence, the present complaint.

3. On assessing all the material available on the record, the learned trial Court convicted and sentenced the respondents-accused vide judgment and order of sentence dated 28.04.2022 under Sections 323, 325, 148 read with Section 149 of Indian Penal Code. Aggrieved by the same, the respondents-accused preferred an appeal before the learned lower Appellate Court wherein the judgment of conviction was upheld but the order of sentence was modified to extend the concession of probation to the respondents-accused vide judgment dated 12.12.2022.

4. Ms. Nisha Sihag, Advocate has put in appearance on behalf of petitioner and filed her power of attorney. Same is taken on record. Learned counsel for the petitioner contends that the learned Court below fell into error by modifying the sentence of the respondents to probation for a period of one year as the same is based on untenable grounds. The charges against the respondents-



accused stand duly proven by all the prosecution witnesses and as such, the learned Court below ought not to have granted the benefit of probation to them. Further, the learned Court below had awarded total Rs. 25,000/- as compensation payable to the petitioner and other persons who had received injuries, which is on the lower side and deserves enhancement in view of the injuries sustained.

5. Learned State counsel supports the impugned judgments and submits that the respondents-accused were correctly granted the benefit of probation for their good conduct on furnishing probation bonds which serves the ends of justice.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the respondents-accused have maintained good conduct and do not have criminal antecedents. 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(2) 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.



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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.”

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

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

21.01.2025
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>