



252 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1972-2019 (O & M)
Date of decision: 03.04.2025

HEERA LAL

...PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kapil Aggarwal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed against the impugned judgment dated 05.12.2018 passed by learned Additional Sessions Judge, Rewari, whereby judgment of conviction dated 23.05.2016 passed by learned Additional Chief Judicial Magistrate, Rewari has been upheld, however, order of sentence dated 24.05.2016 has been modified by releasing the private respondents on probation for six months and compensation of Rs.10,000/- was imposed upon them and was ordered to be paid to the complainant.

2. Brief facts of prosecution case are that Surender Singh son of Sher Singh got recorded his statement before the police that on 18.01.2011 at about 7:00 PM, he along with his brother Devender was present in his house. On hearing noise of quarrel, they both came outside the house and saw that private respondents were quarreling with their aunt Dhanpati, who was got rescued by them. Thereafter, the accused/private respondents started pelting bricks but they both saved themselves by hiding inside the house. In the



meantime, due to brick blows, Hira Lal (petitioner herein) got injured and fell on the floor. Hence, the FIR (*supra*) was got registered.

3. On assessing all the material available on the record, the learned trial Court convicted and sentenced the respondents-accused vide judgment dated 23.05.2016 and order of sentence dated 24.05.2016 for commission of offences under Sections 323/325/506 read with Section 34 IPC. Aggrieved by the same, the private respondents preferred an appeal before the learned lower Appellate Court, which was partly allowed and, they were released on probation for a period of six months with the condition that all the convicts shall deposit an amount of Rs.10,000/- as compensation to be payable to the complainant within a period of one week.

4. Learned counsel for the petitioner contends that the learned trial Court has convicted the private respondents under Sections 323/325/506/34 of IPC and awarded rigorous imprisonment for three years, however, the learned lower Appellate Court fell into error by releasing the private respondents on probation as the same is based on untenable grounds. The charges against them stand duly proven by all the prosecution witnesses and the learned trial Court has rightly convicted the accused persons. As such, the learned lower Appellate Court ought not to have granted the benefit of probation to them.

5. *Per contra*, learned State counsel opposes the prayer made by the petitioner on the ground that the learned lower Appellate Court has passed a well-reasoned order based on correct appreciation of material available on record. As such, interference of this Court is not warranted.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that vide impugned



judgment dated 05.12.2018, the learned lower Appellate Court, after taking into consideration the fact that all the private respondents are not previous convicts, has rightly granted the respondents, the concession of probation, while invoking provisions of Sections 3 and 4 of Probation of Offenders Act. The learned lower Appellate Court has also awarded a compensation of Rs.10,000/- to the complainant under the provisions of Section 5 of the Act. Further, the private respondents-accused have maintained good conduct and do not have criminal antecedents.

7. Sections 3 and 4 of the Probation of Offenders Act, 1958 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....”

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.”

Further still, a two Judge Bench of the Hon’ble Supreme Court in ***Lakahn Lal @ Lakahn Singh vs. State of Madhya Pradesh (2021) 6 SCC 100*** has opined as follows:

“15. We find that the attention of the Court was not drawn to sub Section (10) of Section 360 which provides that Section 360 will not affect the provisions of 1958 Act or other similar laws for the time being in force for the treatment, training or rehabilitation of youthful offenders. Still further, Section 4 of the 1958 Act has a non obstante clause, giving overriding effect over any other provisions of law.

16. The conjoint reading of the provisions of both the statutes, we find that the provisions of Section 360 of the Code are in addition to the provisions of the 1958 Act or the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders”

8. The Hon'ble Supreme Court in ***Bishnu Deo Shah Vs. State of West Banal AIR 1979 SC 964*** has laid down that it is obligatory on the part of the Court to deal with a convict under the provisions of Section 360 of the Cr.P.C., if he is not convicted for an offence punishable with death penalty or imprisonment for life and additionally, if he is not a previous convict. The overarching object of the provision contained in Section 4 and 6 of the Act and Section 360 and 361 of Cr.P.C. is to provide an opportunity to the first time offenders to reform and not expose them in association with the hardened and habitual criminal inmates incarcerated in the judicial custody.

9. However, the plight of the petitioner/injured and the loss suffered by him cannot be overlooked. Significantly, the injured had suffered injuries



substantial enough to attract offences punishable under Sections 323/325/506/34 of IPC. The injured has as much of a right to a free, fair and speedy trial, as does an accused. Keeping the same in mind, the legislature, in its wisdom, has provided for a compensatory mechanism in the form of Section 5 of the Act, which is reproduced below:

Section 5. Power of court to require released offenders to pay compensation and costs.—

(1) The court directing the release of an offender under section 3 or section 4, may, if it thinks fit, make at the same time a further order directing him to pay—

(a) such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence; and

(b) such costs of the proceedings as the court thinks reasonable.

(2) The amount ordered to be paid under sub-section (1) may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

(3) A civil court trying any suit, arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or recovered as compensation under sub-section (1) in awarding damages.

To balance the rights of the injured/petitioner with the benefit of probation extended to the accused/private respondents, this Court deems it expedient to direct the accused/private respondents to pay total compensation of Rs.25,000/- to injured-Heera Lal (petitioner herein) within one month. While compensation can never fully redress the suffering endured by the injured, it is a step toward acknowledging the hardship faced by him, with an aim to meaningfully contribute towards his rehabilitation.

10. In view of the above, this Court finds no perversity or illegality in findings recorded by learned lower Appellate Court, which warrants interference. As such, the judgment dated 05.12.2018 passed by learned



Additional Sessions Judge, Rewari is upheld and a compensation of Rs.25,000/- is awarded to the injured as well.

- 11. Dismissed accordingly.
- 12. Pending miscellaneous application(s), if any, also stand(s) disposed of.

April 03, 2025
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(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No