



309-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-128-SB-2009
Date of decision: 05.03.2025

SURINDER PAL @ BHATTI AND OTHERS
V/S
...APPELLANTS

STATE OF PUNJAB
...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.B.S. Gill, Advocate
 for the appellant Nos.1 to 5 and 7.

 Mr. G.S. Sandhu, Advocate for appellant No.6.

 Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant appeal is preferred against the judgment of conviction and order of sentence dated 23.12.2008 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Jalandhar in the case stemming from FIR No.110 dated 03.10.2002 registered under Sections 307/326/325/323/148/149 of IPC at Police Station Lambra, District Jalandhar. The appellants were sentenced as mentioned below:

Offence under Section(s)	Sentence
326 IPC	RI for 05 years with a fine of Rs.1,000/- in default of which, to undergo SI for one and half months each.
324 IPC	RI for 02 years with a fine of Rs.500/- in default of which, to undergo SI for one month each.
323 IPC	RI for 01 year with a fine of Rs.200/- in default of which, to undergo SI for one month each.
148 IPC	SI for one year each.



It was ordered that all the sentences shall run concurrently.

2. In brief, the case of the prosecution is that on 03.10.2002, when ASI Ram Pal was present in the police station, he received a message that two persons are lying in an injured condition in Civil Hospital, Jalandhar. Upon which, he went to hospital and got recorded the statement of Manjit Singh injured to the effect that when they were coming to their village after attending the office of Zila Parishad, at about 4:30 PM, Joginder Singh and Paramjit Singh got their scooter stopped and from the fields of Maize, Karam Singh, Joginder Singh, Paramjit Singh, Lakhbir Singh, Karnail Singh, Raja and Manga (appellants herein) came out armed with *kirpans*, Hockies, *dangs* and *bhalli*. Then Sarpanch raised *lalkara* and all of them gave beatings to Gurdial Singh and Manjit Singh on various parts of their body. When they raised hue and cry, brother of Gurdial Singh came on the spot and also witnessed the occurrence. Hence, FIR (*supra*) was registered.

3. After assessing the material available on record, the learned trial Court convicted and sentenced the appellants vide judgment and order dated 23.12.2008. Aggrieved by the same, the appellants preferred the present appeal.

4. Learned counsel for the appellants *inter alia* contend that there are material contradictions and improvements in the case set up by the prosecution and the appellants have been falsely implicated in the present case. Further, the complainant and other material witnesses are interconnected and related witnesses to the injured and the complainant. Furthermore, there is prolonged enmity and litigation in between the parties and false implication cannot be ruled out. Moreover, name of the assailants were not disclosed to



the Medical Officer, at the time of medical examination, which is fatal for the case of prosecution. Furthermore, no independent witness was examined by the prosecution.

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the appellants and submits that the appellants have been convicted by the learned trial Court based on correct appreciation of the facts and the law. Moreover, the conviction has been upheld by the learned lower Appellate Court, as such interference by 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 appellant Nos.1 and 3 are more than 50 years of age, appellant No.2-Joginder Singh is about 69 years of age, appellant Nos.4, 6 and 7 are more than 40 years of age, appellant No.5 would be more than 86 years of age.

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 complainant and the loss suffered by him/her cannot be overlooked. Significantly, the injured/complainant had suffered injuries substantial enough to attract offences punishable under Sections 326/324/323/148 of IPC. The complainant 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 complainant with the benefit of probation extended to the accused/appellants, this Court deems it expedient to direct the accused/appellants to pay total compensation of Rs.60,000/- i.e. Rs.30,000/- to complainant-Manjit Singh and Rs.30,000/- to injured-Gurdial Singh within one month. While compensation can never fully redress the suffering endured by the complainant and injured, it is a step toward acknowledging the hardship faced by them, with an aim to meaningfully contribute towards their rehabilitation.



10. In view of the facts and circumstances of the case, the instant appeal is disposed of in the following terms:-

- 1) The judgment of conviction dated 23.12.2008 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Jalandhar is upheld.
- 2) The order of sentence dated 23.12.2008 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Jalandhar, is modified to the extent of granting the concession of probation to the appellants for good conduct.
- 3) The appellants shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each with a surety for the same amount, after 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 four weeks.
- 4) The appellants shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the appellants fail to comply with the said directions or commit breach of the undertaking rendered by them, they shall be called upon to undergo the sentence imposed upon them by the learned trial Court.

March 05, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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