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

CRR-854-2020

Date of decision: 01.05.2025

Vinod Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 28.11.2019 passed by the learned Sessions Judge, Jalandhar, vide which the appeal against judgment of conviction and order of sentence dated 05.12.2018 passed by the learned Judicial Magistrate 1st Class, Jalandhar, in FIR No.122 dated 31.05.2001 registered under Sections 458/325/323/506/148/149 of IPC, has been modified. The petitioner was sentenced by the learned trial Court as under:

Offence	Sentence
Section 458 of IPC	Rigorous Imprisonment for 02 years and a fine of Rs.1,000/-, in default of which Rigorous Imprisonment for 01 month.
Section 325 of IPC read with Section 34 of IPC	Rigorous Imprisonment for 02 years and a fine of Rs.1,000/-, in default of which Rigorous Imprisonment for 01 month.
Section 323 of IPC read with Section 34 of IPC	Rigorous Imprisonment for 01 year and a fine of Rs.500/-, in default of which Rigorous Imprisonment for 15 days.
Section 506 of IPC read with Section 34 of IPC	Rigorous Imprisonment for 03 months.

All the sentences were ordered to run concurrently.

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2. The facts, in brief, are that the complainant, along with his mother started residing in the house of his sister, namely, Bholi, to look after her children as Ramesh Chander @ Karamveer, used to harass the sister of the complainant due to which she started living with her husband in Jammu. On 30.05.2001 at about 09:30 P.M., Ramesh Chander @ Karamveer armed with *datar*, Bittu armed with bat and Vinod (the petitioner herein) empty handed trespassed into the house of the sister of the complainant and caught hold the complainant and dragged him outside the house and given beatings. The accused/petitioner caught hold the complainant and Ramesh Chander @ Karamveer gave two *datar* blows from its reverse side which hit on the legs of the complainant above the knee. Bittu gave two bat blows which hit the right hand and left leg of the complainant. On seeing this, the mother of the complainant came to his rescue and Bittu gave her three bat blows which hit on the thumb of her left hand, right knee and back. Thereafter, on raising the alarm, all the accused persons fled away from the spot by extending threats and as a result, the FIR (*supra*) was registered.

3. After assessing the material available on record, the learned trial Court convicted the petitioner vide judgment dated 05.12.2018. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court, which was dismissed vide judgment dated 28.11.2019, however, modified the order of sentence of the petitioner to that of the period already undergone by him.

4. Learned counsel for the petitioner submits that in spite of the fact that the petitioner has not caused any injury, he has been convicted by the



learned trial Court vide impugned judgment of conviction and was awarded rigorous imprisonment of 02 years. The petitioner along with other co-convicts challenged the impugned judgment of conviction and the learned Appellate Court vide impugned judgment dated 28.11.2019 has dismissed the appeal, however, modified the order of sentence to that of the period already undergone by him. The petitioner has suffered incarceration for more than one year and six months. The learned Additional Sessions Judge, Jalandhar, has failed to extend the benefit of probation, especially, when the petitioner has not caused any injury to the complainant as well as the injured/witness and the petitioner is not involved in any other case. He further submits that the petitioner is a senior citizen and he is 62 years of age and he is not assailing the impugned judgment of conviction dated 05.12.2018 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the release of the petitioner on probation in view of his age and good conduct.

5. Learned State counsel does not object to the restricted prayer of the petitioner, so long as the conviction of the petitioner is upheld.

6. Having heard the learned counsels for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is about 62 years of age and he has undergone the actual sentence of 01 year 06 months and 08 days out of total sentence of 02 years.

7. Sections 3 and 4 of the Probation of Offenders Act, 1958 empower the Courts to release the convicts if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C also allow the Courts to release convicts on probation for good conduct in the cases



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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.”

8. In view of the facts and circumstances of the case, the instant revision petition is disposed of in the following terms:

1)The judgment dated 28.11.2019 passed by the learned Sessions Judge, Jalandhar, upholding the judgment of conviction, is upheld.

2)The order of sentence dated 05.12.2018 passed by the learned Judicial Magistrate 1st Class, Jalandhar, is modified to the extent of granting the concession of probation to the petitioner for good conduct.

3)The petitioner shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- with a surety for the same amount, after furnishing an undertaking to

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keep the peace and good behaviour for the remaining period of his sentence to the satisfaction of the concerned trial court, within four weeks.

4)The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the petitioner fails to comply with the said directions or commit breach of the undertaking rendered by him, he shall be called upon to undergo the sentence imposed upon him by the learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

01.05.2025*Neha*

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No