

CRR-752-2020 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-752-2020 (O&M)
Date of Decision: 05.02.2025

BALVIR SINGH

...Petitioner

Versus

BEANT SINGH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahil Mathroo, Advocate for Mr. Ishan Gupta, Advocate
for the petitioner.

Harpreet Singh Brar, J. (Oral)

1. The present revision petition is preferred against the judgment dated 16.01.2020 passed by learned Additional Sessions Judge, Sangrur whereby the judgment of conviction dated 05.11.2018 passed by learned Judicial Magistrate Ist Class, Malerkotla in FIR No. 16 dated 19.03.2017 registered under Sections 419 and 420 of Indian Penal Code at Police Station Sandaur was upheld and order of sentence dated 05.11.2018 was modified to grant the concession of probation to the accused-respondent No. 1.

2. The FIR in the present case was registered against the accused-respondent No. 1 on the basis of application moved by complainant-Balvir Singh to SSP Sangrur levelling allegations that an application before Deputy Commissioner Sangrur for the cancellation of Lambardari of accused Beant Singh was allowed on 25.10.2016 dismissing Beant Singh from Lambardari but that accused-respondent No. 1 Beant Singh put his witness as Lambardar on two mortgage deeds dated 29.11.2016 impersonating himself as Lambardar whereas he had no authority to put his witness as a Lambardar, and that he had thus committed an offence and serious misconduct and that the above mentioned

brought to the notice of the Bank Officials and they have not written specific date on the mortgage deeds. Upon this application, SSP Sangrur ordered the SHO, P.S. Sandaur for taking action and to give his report in this regard to the SSP Office, Sangrur. As such SHO, P.S. Sandaur sent his report to the SSP in which he solicited penal action against the accused-respondent No. 1. The matter was also got investigated from DSP Malerkotla who also sought prosecution of the accused. The opinion of DDA (Legal), Sangrur was also sought who also recommended the prosecution of the accused. In view of above circumstances, SSP Sangrur ordered the SHO, P.S. Sandaur to register FIR against accused. Subsequently FIR was registered and the investigation was commenced.

3. On assessing all the material available on the record, the learned trial Court vide judgment dated 05.11.2018 and order of sentence of even date convicted the accused-respondent No. 1 for offence under Section 419 of Indian Penal Code and awarded him rigorous imprisonment for a period of three years and was further directed to pay fine of Rs. 5000/- with default mechanism. Aggrieved by the same, the accused-respondent No. 1 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 respondent No. 1 vide judgment dated 16.01.2020.

4. Learned counsel for the petitioner-complainant contends that the learned lower Appellate Court fell into error by modifying the sentence of the respondent No. 1-accused to probation for a period of one year as the same is based on untenable grounds. The charges against the accused-respondent No. 1 stood duly proved by all the prosecution witnesses and as such, the learned

Court below ought not to have granted the benefit of probation to him.

5. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that respondent No. 1-accused has maintained good conduct and does 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.

6. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also 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.”

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

05.02.2025
Ajay Goswami

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