



**103-2 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRA-S-639-SB- 2003**  
**Date of Decision: 07.04.2025**

Sher Singh and another

....Appellants

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sukhsharan Sra, Advocate and  
Mr. Tanvir Singh Attariwala, Advocate  
as *amicus curiae* for the appellants.

Ms. Geeta Sharma, DAG Haryana.

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**HARPREET SINGH BRAR, J.(ORAL)**

1. The present appeal is preferred by the appellants against judgment of conviction dated 10.03.2003 and order of sentence dated 11.03.2003 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, in the case stemming from DDR No.15 dated 21.06.1998 in FIR No.114 dated 20.06.1998 registered under Sections 148, 149, 323, 325, 307 of Indian Penal Code, 1860 (hereinafter IPC) at Police Station Sadar, Jagadhari, be set-aside and accused-appellants be acquitted of the charges in which they were sentenced as under:

| Offence under                               | Sentence                                                                                                                  |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| Section 323 read with Section 34 of the IPC | Rigorous Imprisonment for six months and a fine of Rs.500/-, in default of which rigorous imprisonment of one month each. |
| Section 325 read with Section 34 of the IPC | Rigorous Imprisonment for two years and a fine of Rs.500/-, in default of which rigorous imprisonment of one month each.  |



2. Succinctly, the facts, as alleged, are that on 20.06.1998, ASI Randhir Singh recorded the statement of injured Jai Pal (PW3) at Civil Hospital, Jagadhri wherein he stated that he and his brother, Samay Singh were cultivating a piece of agricultural land as tenants. A civil dispute regarding the same was pending among the five brothers. On 20.06.1998, at around 11:00 a.m., Samay Singh was ploughing the land with a tractor, Jai Pal(PW3), along with his wife Raj Kumari (PW6) and son Adesh Kumar (PW7), were collecting garbage from the field when accused-appellant Sher Singh was armed with a *barchhi*, accused-appellant Ram Singh was armed with a *saria*, and co-accused Raj Kali was armed with a *gandasi*, arrived there and objected to their presence on the land. When they insisted that they were lawfully cultivating the land, accused-appellant Sher Singh struck on Jai Singh's head with a *barchhi*, accused-appellant Ram Singh gave a *saria* blow on his right arm, and Raj Kali struck Raj Kumari on the head with a *gandasi*. Accused Manoj Kumar and accused Rajesh, sons of Ram Singh, beat Adesh Kumar(PW7) with *dandas*. A quarrel ensued and both the parties inflicted injuries to each other. All injured persons were taken to the hospital. On the statement of the complainant, FIR(*supra*)was registered against the accused. Police visited the spot and investigated the present case along with cross-case of FIR No. 114 dated 20.06.1998. After completion of usual investigation report u/s 173 Cr.P.C. was only presented against appellants Sher Singh and Ram Singh before learned committal Court.

3. After assessing the material available on record, the learned trial Court convicted and sentenced the appellants vide judgment and order dated



10/11.03.2003. Aggrieved by the same, the appellants preferred the present appeal in this Court.

4. Learned counsel for the appellants *inter alia*, contends that there was delay in lodging the FIR, which has been ante-timed to give it color of promptness. The complainant party was aggressor because land in dispute was in joint possession of the parties and order of status quo was passed by learned civil court whereas civil litigation was pending as it is clear from the copy of order Ex. DD. The complainant party also attempted to commit murder of Raj Kali by running over tractor, and case under section 307 IPC was registered against the complainant party, which clearly evident that the complainant party had caused injuries in furtherance of their common intention. But the learned trial court has failed to appreciate this aspect of the matter and wrongly convicted the appellants.

5. Further, there are material contradictions in the ocular version vis-a-vis medical evidence, it is stated by PW3 Jai Pal that accused Ram Singh had given a *saria* blow on his right arm and no other injury has been stated to be inflicted on his right hand by the accused in medical evidence as per testimony of PW4 Dr. Ashok Sharma and as per copy of MLR Ex. PC the injury no.5 has been shown on the PW3 Jai Pal. Later on, fracture was also shown in the first phalank of little finger of the right hand. Therefore benefit of doubt ought to have been given to the accused because they had inflicted injuries on the person of complainant party in their self defence. In fact, the complainant party was the aggressor, where as it has clearly been mentioned that the injuries on the persons of accused are large in number, and there was no motive for the accused-appellants to commit the crime. Hence, there is



contradiction between the medical evidence and the ocular testimony of witness, which also makes the case of prosecution highly doubtful.

6. *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, as such interference by this Court is not warranted.

7. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that a property dispute between real brothers resulted in the alleged incident, causing registration of FIR (*supra*) and DDR (*supra*) for their version of events, and the parties have been suffering the agony of trial for the last 27 years.

8. Sections 3 and 4 of the Probation of Offenders Act, 1958 (hereinafter to be referred to as 'the Act') 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 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 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”*

9. 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.

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

- 1) The judgment dated 10.03.2003 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, confirming the conviction of the appellants is upheld.
- 2) The order of sentence dated 11.03.2003 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, 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, with four weeks.
- 4) The appellants shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the petitioners 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.

April 07, 2025  
*manisha*

**(HARPREET SINGH BRAR)**  
**JUDGE**

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