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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2475-2010
Date of decision:21.04.2025
..Petitioner

HANS RAJ

Versus

STATE OF HARYANA ..Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saurabh Bhardwaj, Advocate
for the petitioner in CRR-2475-2010.

Mr. Chander Shekhar, Advocate
for complainant in CRR-2475-2010.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, (ORAL).

1. This revision petition is against the judgement and order dated 07.08.2010 and 10.08.2010 respectively passed by the learned Additional Sessions Judge (Fast Track Court), Kurukshetra, whereby the petitioner has been convicted and sentenced under Sections 323, 354, 506 IPC in Criminal Appeal No.55 of 2009 arising out of FIR No.216 dated 19.07.2003, under Sections 323, 354, 506 IPC, PS Sadar, Thanesar.

The petitioner was sentenced as under:

Offence	Sentence
323 IPC	RI for 6 months and to pay fine of Rs.500/- and in default of payment of fine, he shall further undergo SI for 1 month.
354 IPC	RI for one year and to pay fine of Rs.1000/- and in default to further undergo SI for two months.
506 IPC	RI for 6 months and fine of Rs.500/- for commission of offence under



	Section 506 IPC and in default further SI for 1 month.
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It was ordered that all sentences shall run concurrently.

2. Brief facts of the case are that on 19.7.2003, ASI Sita Ram along with other police officials was present at Pipli Chowk in order to control traffic. Complainant Jeeto Devi along with her mother came and got her statement Ex.PB recorded to the effect that on 19.7.2003, around 4.30 P.M., she was going to the field to answer the call of the nature. When she reached near the field, Hans Raj son of Ved Parkesh, resident of village Doda Kheri came. When she was crossing him, he caught hold her arm with bad intention and tried to drag her behind the 'Gohara'. When she tried to resist, he gave a slap to her. In the process of rescuing her, her bangles were broken and injuries were caused on her wrist. She raised noise, upon which Maya Devi wife of Nanha Ram and Raj Kumar son of Inder Singh came there and on seeing them Hans Raj fled away from the spot while saying that if she told the occurrence to any one or to the police, she will be killed. On this statement, ruqa was sent to police station and formal FIR was registered.

3. After assessing the material available on record, the learned trial Court acquitted the petitioner vide judgment dated 13.08.2009. Aggrieved by the same, the State preferred an appeal before Id. Additional Sessions Judge (Fast Track Court), Kurukshetra which was allowed. Hence instant revision petition has been filed by petitioner.

4. Learned counsel for the petitioner submits that the prosecution has examined as many as seven witnesses in this case but despite the fact the charges remained unproved. In the absence of the examination of eye witness, the prosecution could not prove and corroborate the charges



levelled against the accused. The accused is clearly entitled to benefit of doubt as well as for acquittal.

5. Per contra, learned State counsel opposes the prayer made by learned counsel for the petitioner and submits that the petitioner has been convicted by the learned lower Appellate Court based on correct appreciation of the facts and the law, as such interference by this Court is not warranted.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that petitioner is more than 40 years of age.

7. 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 allows 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 ***Lakahnlal @ 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. After considering the facts and circumstances, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of 6 days and the petitioner has been facing



trial for the last more than 21 years, this Court is inclined to give him the benefit of probation for good conduct.

10. In view of the above facts, the instant revision petition stands disposed of with the following directions:-

1) The judgment of conviction dated 07.08.2010 passed by learned Addl. Sessions Judge, Fast Track Court, Kurukshetra is upheld.

2) The order of sentence dated 10.08.2010 passed by the learned Addl. Sessions Judge, Fast Track Court, Kurukshetra 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 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 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 them, he shall be called upon to undergo the sentence imposed upon him by the learned lower Appellate Court.

21.04.2025

Poonam

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No