

**CRR-4020-2012 (O&M)****1****255****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-4020-2012 (O&M)****Date of Decision: 23.01.2025****MUKHTIAR KAUR****...Petitioner****Versus****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sanjeev Kumar, Advocate for Mr. Jai Bhagwan, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)****CRM-75583-2012**

Allowed as prayed for and delay of 50 days in filing the instant
revision petition is condoned.

CRR-4020-2012

1. The present revision petition is preferred against the judgment dated 26.07.2012 passed by learned Additional Sessions Judge, Sangrur whereby the judgment of conviction dated 12.01.2012 passed by learned Judicial Magistrate Ist Class, Malerkotla in FIR No. 67 dated 24.06.2007 registered under Sections 452, 323, 341, 506 and 34 of Indian Penal Code at Police Station Malerkotla was upheld and order of sentence was modified to grant the concession of probation to the accused persons.

2. The facts of the case necessary for disposal of the present case are that on 22.06.2007, on receipt of MLR No. JS33/07 of Mukhtiar Kaur, HC Sukhwinder Singh went to Civil Hospital Malerkotla and obtained opinion of the doctor regarding fitness of injured Mukhtiar Kaur, who declared her unfit to



make statement. On 23.06.2007 HC Sukhwinder again went to Civil Hospital Malerkotla for recording statement of complainant Mukhtiar Singh, but the doctor again declared her unfit to make statement. On 24.06.2007 HC Sukhwinder Singh along with HC Sewa Singh, C Jasmail Singh and PHG Bikkar Singh again went to Civil Hospital and then doctor declared Mukhtiar Kaur fit to make statement thereafter, Mukhtiar Kaur got her statement recorded with HC Sukhwinder Singh to the effect that she has two sons, both are married, Fateh Singh resided separately along with his family and she resided with her younger son Baljinder. On 21.06.2007, when she returned to her home from field at about 10.p.m. and entered the main case of her house, then Fateh Singh and his wife Paramjit Kaur also came from behind. At that time Paramjit Kaur was armed with dang. Paramjit Kaur gave a dang blow upon her which landed on the back of her left shoulder. Thereafter, Fateh Singh gave a gandasi blow upon her which landed on the right side of her head. She raised alarm Marta-Marta. Then Paramjit Kaur gave another blow with her dang which landed on the left ankle of the complainant. On hearing her noise Baljinder Singh younger son of the complainant came at the spot. She further stated that at the time of occurrence electric bulb was on in the court yard. The occurrence was witnessed by Baljinder Singh. Thereafter both the accused ran away with their respective weapons towards their house, by giving threats to kill her. Saraj Mohd who was standing on the main gate threw brick bats at the main gate of their house, who also threatened to kill the complainant and restrained her from moving out of the house. Baljinder Singh her younger son got the complainant admitted in Civil Hospital Malerkotla, where she was under treatment. On the basis of aforesaid allegations, FIR(supra) was registered.



3. On assessing all the material available on the record, the learned trial Court vide judgment and order of sentence dated 12.01.2012 convicted the private respondents No. 2 to 4 under Sections 452, 323, 341, 506 read with Section 34 of Indian Penal Code and sentenced them substantive sentence of one year with total fine of Rs. 800/- each. Aggrieved by the same, the private respondents-accused 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 private respondents-accused vide judgment dated 26.07.2012.

4. Learned counsel for the petitioner contends that the learned lower Appellate Court fell into error by modifying the sentence of the private respondents to probation for a period of one year as the same is based on untenable grounds. The charges against the respondents-accused stand duly proven by all the prosecution witnesses and as such, the learned Court below ought not to have granted the benefit of probation to them.

5. Learned State counsel supports the impugned judgments and submits that the respondents-accused were correctly granted the benefit of probation for their good conduct on furnishing probation bonds which serves the ends of justice.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that private respondents-accused have maintained good conduct and do not have criminal antecedents. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels the Court to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate



and channel that awareness into making fruitful contributions in society. A Coordinate bench of this Court in *Nasri v. State of Haryana 2023(2) Law Herald 2203*, speaking through Justice Arun Monga, made the following observations:

“11.2. Objectives and principles of criminal law as envisioned in the provision ibid, apart from deterrence against committing crime against society, are inter-alia focused on the reformation of offenders, which inheres the concept of probation. Modern criminal justice system often aims to balance punishment with rehabilitation, emphasizing the potential for positive change in individuals who have committed crime. The goal of criminal law extends beyond mere punishment. While punishment serves to deter and hold individuals accountable for their actions, there is a growing recognition of the importance of addressing the underlying factors that contribute to criminal behaviour. This perspective emphasizes the potentials of offenders to reform and reintegrate into society as law-abiding citizens. Probation is one of the mechanisms used to achieve this reformation objective. In certain cases, certain offenders may be asked to remain under community supervision rather than being incarcerated. During such probation period, the offender can be put to follow certain conditions, such as regular reporting to a probation officer, participating in counselling or treatment programs and maintaining employment or education. The aim is to provide support, guidance and opportunities for the offender and to address the root causes of their criminal behaviour and develop positive life skills. Close monitoring and guidance provided during probation can help the offender make positive changes in their life and reduce the likelihood of re offending.”

However, the plight of the petitioner-complainant and the loss suffered by her cannot be overlooked. Significantly, the complainant had suffered injuries substantial enough to attract offences punishable under Sections 452, 323, 341 and 506 read with Section 34 of the IPC. The complainant has as much of a right to a free, fair and speedy trial, as does an accused. Keeping in mind the same, the legislature, in its wisdom, has provided for a compensatory mechanism in the form of Section 5 of the Probation of Offenders Act, 1958, 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 petitioner-complainant with the benefit of probation extended to the private respondents, this Court deems it expedient to direct the private respondents to pay compensation of Rs. 10,000/- each to the petitioner. While compensation can never fully redress the suffering endured by the petitioner-complainant, it is a step toward acknowledging the hardship faced by him/her, with an aim to meaningfully contribute towards her/his rehabilitation.

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.

9. Copy of this order be sent to the trial Court for recovery of compensation amount in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

23.01.2025

Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>