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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-44-2012

Date of decision: 07.05.2025

Manjit Kaur

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ramesh Sharma, Advocate for
Mr. S. S. Brar, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 19.12.2011 passed by the learned Additional Sessions Judge, Moga, vide which the appeal against judgment of conviction and order of sentence dated 12.10.2009 passed by the learned Judicial Magistrate 1st Class, Moga, in FIR No.17 dated 23.03.2000 registered under Sections 419/420/465/467/468/471 of IPC, has been dismissed. The petitioner was sentenced by the learned trial Court as under:

Offence	Sentence
Section 419 of IPC	Rigorous Imprisonment for 06 months.
Section 420 of IPC	Rigorous Imprisonment for 01 year and a fine of Rs.200/-, in default of which Rigorous Imprisonment for 01 month.
Section 465 of IPC	Rigorous Imprisonment for 06 months.
Section 467 of IPC	Rigorous Imprisonment for 02 years and a fine of Rs.300/-, in default of which Rigorous Imprisonment for 01 month.
Section 468 of IPC	Rigorous Imprisonment for 01 year and a fine of Rs.200/-, in default of which Rigorous Imprisonment for 01 month.
Section 471 of IPC	Rigorous Imprisonment for 06 months.



All the sentences were ordered to run concurrently.

2. The facts, in brief, are that the complainant was married with Pritam Singh and after her marriage, the accused/petitioner started living with Pritam Singh and she lived with him for about one year. Pritam Singh died in an accident, after which, the accused/petitioner had prepared a bogus Will of Pritam. However, the complainant won the litigation and mutation has been sanctioned in her favour. Now, the accused/petitioner started living with one person Chatin Singh. One week back, the accused/petitioner impersonating the complainant leased two acres of land to Brick-Kiln owners by forging her signatures and thus, the FIR (*supra*) was registered.

3. After assessing the material available on record, the learned trial Court convicted the petitioner vide judgment dated 12.10.2009. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court, which was dismissed vide judgment dated 19.12.2011.

4. Learned counsel for the petitioner submits that the judgment passed by the learned trial Court is based on conjectures and surmises. It is contended that the petitioner has no criminal antecedents. Further, the petitioner has been facing trial for the last about 25 years, and as such, the learned Courts below should have considered releasing her on probation under Section 361 Cr.P.C. read with Sections 3 and 4 of the Probation of Offenders Act, 1958.

5. He further submits that he is not assailing the impugned judgment of conviction dated 12.10.2009 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 her age and good conduct.



6. *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 trial Court based on correct appreciation of the facts and the law. Moreover, the conviction has been upheld by the learned lower Appellate Court, 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 with their able assistance, the Court notes that Sections 3 and 4 of the Probation of Offenders Act, empower the Courts to release the offenders/convicts on probation of good conduct if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C, also empower the Courts to release the offenders 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 she has

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actually undergone sentence of 22 days out of total sentence of 02 years, this Court is inclined to give her the benefit of probation for good conduct.

10 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 19.12.2011 passed by the learned Additional Sessions Judge, Moga, upholding the judgment of conviction, is upheld.

2)The order of sentence dated 12.10.2009 passed by the learned Judicial Magistrate 1st Class, Moga, 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 her, she shall be called upon to undergo the sentence imposed upon her by the learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

07.05.2025*Neha*

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