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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1965-2019 (O&M)

Date of Decision: 03.02.2025

Subhash

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rohan Moudgil, Advocate for
Mr. Sandeep Sharma, Advocate for the petitioner.
Mr. Rakesh Kumar Ambavata, AAG Haryana.
Mr. Rakesh Dhiman, Advocate for respondents No.2 to 5.
(through video conferencing)

HARPREET SINGH BRAR J. (Oral)

1. The present revision petition is preferred against order dated 06.04.2018 passed by the learned Additional Sessions Judge, Gurguram whereby the judgment of conviction dated 03.01.2017 passed by the learned Judicial Magistrate Ist Class, Gurgaon, was upheld while the order of sentence was modified and the respondents-accused were released on probation in the case stemming from FIR No.87 dated 22.02.2013 registered under Sections 323, 325, 34 at Police Station Manesar.

2. Briefly, the facts are that on 02.01.2013, a fight ensued between the father and the uncle of the petitioner-complainant. The respondents-accused caused injuries to the petitioner. After assessing the evidence led, the learned trial Court convicted the respondents-accused and sentenced them to undergo simple imprisonment for 3 months for offence under Section 323 IPC and simple imprisonment of one year for offence under Section 325 IPC along with a fine of Rs. 20,000/-. Aggrieved by the same, the respondents-accused filed an appeal



before the learned lower Appellate Court resulting in modification of the sentence imposed upon them as they were released on probation.

3. Learned counsel for the petitioner contends that the charges against the respondents-accused have been duly proved, culminating in their conviction vide judgment dated 03.01.2017. Dr. Sumit Malik was examined as PW-5, who categorically opined that a tooth was missing because of the trauma sustained and the injury was categorized as grievous. The learned Court below has erred in releasing them on probation as they deserve to be awarded the maximum punishment.

4. Having heard learned counsel for the parties and after perusing the record, it transpires that learned lower Appellate Court has upheld the conviction of the respondents-accused while releasing them on probation. 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 Probation of Offenders Act, 1958 (hereinafter to be referred to as '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.

5. In light of the above, this Court finds no infirmity or perversity in the judgment of the learned Court below granting the benefit of probation to the private respondents. However, the plight of the petitioner-complainant and the loss suffered by him cannot be overlooked. Significantly, the petitioner had



suffered injuries substantial enough to attract offences punishable under Sections 323 and 325 of the IPC. The petitioner 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 Act, 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.

6. 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 respondents to pay compensation of Rs. 20,000/- 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. Disposed of, accordingly. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

03.02.2025
manisha

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No