

**CRR-1581-2023 (O&M)****1****246****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-1581-2023 (O&M)****Date of Decision: 03.03.2025****BALA RANI****...Petitioner****Versus****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Hritik Gupta, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)**

1. The present revision petition is preferred against the judgment dated 03.04.2023 passed by learned Judicial Magistrate Ist Class, Moonak, whereby the accused-respondents No. 2 to 7 have been convicted under Sections 323, 294, 506, 148, 149 and 201 of Indian Penal Code and vide order on quantum of sentence dated 03.04.2023, they have been released on probation for a period of 06 months.

2. FIR in the present case has been registered on statement of complainant Bala Rani wife of Dharampal who stated that on 09.04.2015 at about 12 noon, the officials of electricity Department came to their Street for installing electric meters on the electric poles. Brij Bhushan son of Om Parkash was present at the spot and he asked the J.E to remove the electric pole and to install the same on the side of Dharampal. Complainant was watching all this standing there. She told the J.E. that the electric pole was rightly installed. Brij Bhushan started using filthy language in high voice and started abusing her. When she tried to stop Brij Bhushan, then he asked his sons to catch hold of her

**CRR-1581-2023 (O&M)****2**

and to teach her a lesson for getting installed the electric pole on their side. In the meantime, Manoj Kumar, Bunty sons of Brij Bhushan came at the spot and they pushed her on the ground. Manoj Kumar caused injuries on the right shoulder with his nails and Bunty caused injuries on her right hand with his nails. In the meantime, Sittu son of Brij Bhushan also came at the spot and caught hold of her from the back side and pulled her hair. Thereafter, Mukut Lal son of Om Parkash and his son Sunny also came at the spot and caused injury on the left shoulder with a brick. Thereafter Sunny son of Mukut Lal gave a blow of wooden stick on the right knee. They dragged her on the ground and caused injuries to her. She raised hue and cry and her husband Dharampal came at the spot. Many other people also came at the spot and all the accused persons fled away from the spot alongwith their weapons by giving threats. Thereafter, her husband admitted her at SDH, Moonak from where she was referred to civil hospital, Sangrur. On the basis of her statement, present FIR was registered against the accused.

3. Learned Judicial Magistrate Ist Class, Kaithal vide judgment of conviction dated 03.04.2023 convicted the accused-respondents No. 2 to 7 under Sections 323, 294, 506, 148, 149 and 201 of Indian Penal Code and vide order on quantum of sentence of even date, they have been released on probation for a period of six months.

4. Learned counsel for the petitioner contends that the learned trial Court fell into error by releasing the private respondents on probation for a period of six months as the same is based on untenable grounds. The charges against the respondents No. 2 to 7 stand duly proven by all the prosecution witnesses and as such, the learned trial Court ought not to have granted the benefit of probation to them. Learned counsel further contends that learned trial

**CRR-1581-2023 (O&M)****3**

Court while granting the benefit of probation to private respondents, the provisions under Section 5 of Probation of Offenders Act were not invoked and it is a trite law that while granting the benefit of Sections 3 and 4 of Probation of Offenders Act, the provision of Section 5 of the aforesaid Act shall also be made applicable as the complainant-petitioner has also suffered the agony of trial.

5. Learned State counsel supports the impugned judgment and submits that the respondents No. 2 to 7 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 of the case, the present case is taken up for final disposal without issuing notice to the private respondents to save their litigation cost and precious time of the Court. This Court is of the considered opinion that the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR in the present case was lodged on 21.04.2015 and the private respondents have been suffering the agony of trial since the last about 10 years. It also appears that the private respondents-accused do not have any criminal antecedents.

7. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society.

8. In ***Deo Narain Mandal vs. State of UP (2004) 7 SCC 257***, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere



formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

9. Further, the Hon'ble Supreme Court in ***Ravada Sasikala vs. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

10. In view of the discussion above, this Court does not find any reason to interfere with the order of sentence dated 03.04.2023 passed by learned Judicial Magistrate Ist Class, Moonak. Consequently, the present petition is dismissed.

11. However, the plight of the petitioner-complainant and the loss suffered by her cannot be overlooked. Significantly, the petitioner had suffered injuries substantial enough to attract offences punishable under Sections 323, 294, 506, 148, 149 and 201 of Indian Penal Code. 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 complainant-petitioner with the benefit of probation extended to the petitioner, this Court deems it expedient to direct the private respondents No. 2 to 7 to pay compensation of Rs. 30,000/- to the complainant-petitioner within two months from the date of receipt of this order. While compensation can never fully redress the suffering endured by the complainant, it is a step toward acknowledging the hardship faced by her, with an aim to meaningfully contribute towards her rehabilitation.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

13. A copy of this order be sent to learned trial Court/Illaq Magistrate through fax for compliance.

(HARPREET SINGH BRAR)
JUDGE

03.03.2025

Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No