

**CRR-4357-2015 (O&M)****1****260 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRR-4357-2015 (O&M)****Date of Decision: 08.05.2025****JASWINDER SINGH****...Petitioner****V/S****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Robin Singh, Advocate for
Mr. Inderjeet Sharma, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Mr. Vijay Rana, Advocate
for respondents No. 2 and 3.

**********HARPREET SINGH BRAR J. (Oral)**

1. The present revision petition has been filed against the judgment dated 03.08.2015 passed by learned Additional Sessions Judge, Jalandhar vide which accused/respondents No. 2 and 3 have been acquitted under Section 325 of Cr.P.C. and respondent No. 3-Ajit Singh has been released on probation in the FIR No. 360 dated 28.11.2007 registered under Sections 325, 323, 34 of Indian Penal Code at Police Station Nakodar.

2. The prosecution story in brief is that the present case was registered on the basis of statement dated 24.11.2007 of petitioner Jaswinder Singh who stated that he is a permanent resident of Australia and he is having house in village Dherian and also other land there. On 17.11.2007, he came to his village from Australia. A JCB Machine was hired for levelling his land on 22.11.2007. The land of Mohan Singh of Village Dherian adjoins his land and they are having common Watt and the said adjoining land belongs to Mohan Singh and Sohan Singh sons of Joginder Singh of Village Syaliwal. At 9.15 A.M., on 23.11.2007, the JCB machine was stopped by accused-respondent No. 1 by

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saying that the watt of land in which JCB machine is operating is wrong. Sital Singh, Sarpanch called the petitioner by telephonic call and asked the petitioner to come to the land because Sukhdev Singh etc. are raising objections that Watt is wrong. Sital Singh Sarpanch, Ajit Singh, Sukhdev Singh and another person were there. The petitioner took his car and reached the land and after some time Sital Singh Sarpanch, Kala Panch, Ajit Singh, Sukhdev Singh and three persons reached at the spot. Immediately, on reaching at the spot, Ajit Singh started abusing the petitioner stating that he has received telephonic call of Sohan Singh from England asking to stop of the work. The petitioner asked them that the owner can come and get the demarcation done and if any land is found to be in his possession, he will leave the excess land. The petitioner asked Ajit Singh, if he is having any power of attorney, then Ajit Singh pushed the petitioner and petitioner fell down and thereafter, Ajit Singh and his son Sukhdev Singh gave blows on the left shoulder, left knee, left elbow of the petitioner. Sukhdev Singh gave kick blows on the knee of the petitioner. Ajit Singh gave blows on left eye of the petitioner and also on the back side of left back by way of kicks. Sukhdev Singh caught hold the neck of the petitioner and began to push and pull the same. The petitioner raised hue and cry. Then Sital Singh, Sarpanch and Kala Panch, rescued the petitioner and then petitioner gave telephone call to his uncle Colonel Daljit Singh, who put the petitioner in his car and took him to Civil Hospital, Nakodar. On the basis of this statement, a case under Sections 325/323/34 of IPC was registered.

3. Learned counsel for the petitioner contends that the learned lower Appellate Court fell into error by acquitting private respondents No. 2 and 3 under Section 325 of Indian Penal Code and further by modifying the sentence of the respondent No. 3 to granting him probation for a period of six months as



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the same is based on untenable grounds. The charges against the private respondents-accused stand duly proven by all the prosecution witnesses and as such, the learned Court below ought not to have acquitted the private respondents No. 2 and 3 under Section 325 of IPC and also further ought not to have granted the benefit of probation to respondent No. 3.

4. Learned counsel for the private respondents No. 2 and 3 submits that revision petition bearing No. CRR-2998-2015 was filed by respondent No. 2 against the impugned judgment dated 03.08.2015 and the learned counsel for petitioner had put in appearance in the aforementioned revision petition and this Court vide order dated 11.09.2015 has modified the order of sentence and released respondent No. 2 on probation. As such, nothing survives in the present petition and this petition has been filed subsequently after passing of the order dated 11.09.2015. Further learned counsel for the respondents No. 2 and 3 relied upon the judgments passed by Hon'ble Supreme Court of India in cases titled as ***Mano Dutt and Another Vs. State of U.P.* 2012(2) RCR (Criminal) 798, *State of Punjab Vs. Bawa Singh* 2015(2) SCC (CrI.) 325, *Manjappa Vs. State of Karnataka* 2007(3) RCR (Criminal) 216 and *Pandurang Chandrakant Mhatre and Ors. Vs. State of Maharashtra* 2010(1) RCR (Criminal) 612.** Learned counsel further relies upon the judgments passed by Co-ordinate Bench of this Court in cases titled as ***Gurcharan Singh and Another Vs. The State of Punjab* 2003(3) RCR (Criminal) 590, *State of Punjab Vs. Bhola Singh and Another* 2005(2) RCR (Criminal) 403.**

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that respondents No. 2 and 3 have been rightly acquitted under Section 325 of IPC and respondent No. 3 has rightly be granted the benefit of probation as he has maintained good conduct



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and does not have criminal antecedents. 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.

6. 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.

7. 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.

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8. Further, the power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See **H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415**). A Division bench of this Court in the judgment passed in **State of Haryana vs. Ankit and others** passed CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

9. 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.

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

(HARPREET SINGH BRAR)
JUDGE

08.05.2025
Ajay Goswami

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