



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
243-2**

**CRR No.483 of 2017 (O&M)
Date of decision: 27.02.2025**

Bimla Devi

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Jasleen Kaur, Advocate
for Mr. Manoj Kumar Taya, Advocate
for the petitioner.

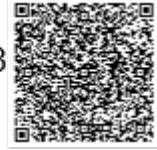
Mr. Ram Karan Agnihotri, Advocate for respondent No.2.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present revision petition has been filed against the impugned judgment dated 20.10.2016 passed by learned Additional Sessions Judge, Bhiwani, whereby judgment of conviction dated 02.02.2013 passed by learned Judicial Magistrate Ist Class, Karnal has been upheld, and petitioner has been released on probation.

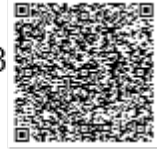
2. The brief facts of the case are that the respondent No.2/complainant used to work as Head Daroga in the Municipal Committee and he retired on 31.12.2007. The petitioner/accused was working in the Municipal Committee, Gharaunda under the supervision of the complainant. The accused was not performing her duty properly and used to remain absent during her duty hours. The accused used to do personal work in order to earn more money in addition to her salary.



The complainant instructed the accused many times not to do personal work during duty hours and to concentrate on her duty. Instead of improving her conduct and working, the accused got provoked. On 06.04.2007, at about 2:00 P.M., the complainant was marking the presence of the workers, including accused, working under his supervision. Suddenly, the accused started abusing the complainant and gave beatings with her shoes. She threatened the complainant that he is no one to ask her to perform her duties. Thereafter, the complainant made a complaint to the Secretary M. C. Gharaunda, where she admitted her guilt and was also suspended by the authorities. On the basis of the statement, FIR (*supra*) was got registered.

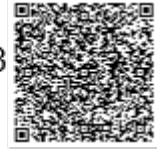
3. On assessing all the material available on the record, the learned trial Court convicted and sentenced the petitioner/accused vide judgment dated 02.02.2013 and order of sentence dated 04.02.2013 for commission of offence under Sections 186/332 IPC. Aggrieved by the same, the petitioner/accused preferred an appeal before the learned lower Appellate Court which was partly allowed and the petitioner/accused was released on probation for a period of six months with the condition that the convict shall deposit an amount of Rs.5,000/- as compensation to be payable to respondent No.2/complainant.

4. Learned counsel for the petitioner *inter alia* contends that both the learned Courts below have failed to consider the impact of inordinate and unexplained delay of 87 days in filing the complaint (*supra*). No justifiable or plausible reason has been given by the



complainant with regard to delay in putting the criminal law into motion. The complainant had tried to project that the petitioner was in dereliction in performing her official duties and there are many complaints against her work, however, the complainant could not even produce a single witness to corroborate these allegations and further no finding has been recorded with regard to the dismissal of the suit filed by the complainant seeking damages against the petitioner and the enquiry report which upheld the stand of the petitioner with regard to her sexual harassment by the complainant and the defence evidence, which was more convincing and trustworthy, was ignored without assigning any justifiable reason. Lastly, learned counsel for the petitioner has relied upon the judgment of this Court in ***“Tejwinder Singh Vs. State of Punjab 209 (5) RCR Criminal 526, Ajaib Singh Vs. State of Punjab and another passed in CRR 2851 of 2019*** decided on 03.04.2022 and ***Bachna Ram Vs. State of Haryana 2005 (3) RCR Criminal 966*** and submits that the learned Lower Appellate Court while granting probation has not made any observation with regard to the effect of probation on her employment in service benefits in view of the specific provision contained in Section 12 of the Probation of Offenders Act.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that there was no dispute regarding the fact that the petitioner/accused disobeyed the instructions of the complainant/respondent No.2 and



voluntarily caused hurt to him on 06.04.2007. Further, the accused has failed to tender any plausible explanation for not reporting the matter to the higher authorities before 06.04.2007, therefore, it is clear that the complaints, which were moved against the complainant were the counter blast of the complaint, moved by him before Secretary M.C. Gharaunda. Furthermore, there is no dispute regarding the use of abusive language and beatings given to the complainant by the accused and there is no material evidence on record to prove that the complainant used to harass and exploit her which provoked her to take such step. Moreover, statement of the accused under Section 313 Cr.P.C. and before the inquiry officer are contradictory to each other, which creates a reasonable doubt over the version and defence of the petitioner-accused. As such, the prosecution has proved its case beyond the shadow of reasonable doubt and both the Courts below have passed a well reasoned judgment based on appreciation of evidence available on record.

6. Keeping in view of the ratio of law as laid down in

Tejwinder Singh (supra):-

14. The word "disqualification" used in Section 12 ibid is stated to mean "making someone (sic-unfit) enough for something" and hence disqualification attaching to revision petitioner's conviction cannot be made the basis of his dismissal from service.

15. In re: Iqbal Singh v. Inspector General of Police and others, AIR 1970 Del 240, their lordships have observed as under :



16. Section 12 of the Act uses the word "disqualification" and the meaning given to this word in Webster's Third New International Dictionary is :

(i) the act of disqualifying or the state of being disqualified" (protesting his disqualification from office under the new law);

(ii) "something that disqualifies or incapacitates" (A crime conviction is automatically a disqualification for that public office).

The word "disqualify" is also stated to mean – making someone unfit for something. The further meaning given is or that the person may be deprived within the meaning of the word "disqualify" of any right or privilege. We are of the view that the words "disqualification, if any, attaching to a conviction of an offence" as used in Section 12 of the Act would include a person's losing his right or qualification to remain or to be retained in service. Section 12 of the Act, clearly saves the convict from suffering such disqualification attaching to his conviction. In respect of his conviction, the petitioner had the protection of Section 12 and he was saved from suffering any disqualification such as the one which resulted in his dismissal.

In view of the above observations, petitioner's having been released on probation of good conduct, his conviction shall not be a hurdle in his way to get the retiral benefits or other service benefits.

7. In view of the above discussion, the petitioner having been released on probation of good conduct, her conviction shall not be a hurdle in her way to get retrial benefits and other service benefits to which the petitioner is entitled to.

8. The present petition is accordingly disposed of.

(HARPREET SINGH BRAR)
JUDGE

27.02.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No