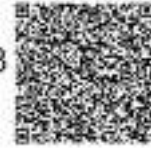


**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

227

2025:PHHC:171783



CRA-S-2117-2019 (O&M)
Date of decision: 09.12.2025.

NARENDER AND ANOTHER

... Appellant(s)

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. Sushil Sheoran, Advocate,
for the appellants.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Ms. Pavneet Kaur, Advocate, (Legal-aid-counsel)
for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

CRM-22573-2019

Prayer in the present application is for condonation of delay of
30 days in filing the application for leave to appeal.

For the reasons mentioned in the application, the same is allowed
and delay of 30 days in filing application for leave to appeal is condoned.

MAIN APPEAL

The instant appeal has been preferred against the judgment dated 08.04.2019 passed by Additional Sessions Judge, Bhiwani, whereby, while setting aside the judgment dated 08.07.2016 passed in Criminal case No.213-1 of 2012 arising out of FIR No. 80 dated 11.08.2012, under Sections 323 and 325/34 of the Indian Penal Code, 1860 by the Sub Divisional Judicial Magistrate, Loharu, the appellants have been convicted and thereafter ordered to be released on probation.

2 Tersely put, the facts of the present case are that the aforesaid FIR was registered on the statement of Suresh Devi, wife of Om Parkash, resident of Village Noonsar. She stated that on 28.07.2012 at about 5:00 p.m., she was carrying waste to her *rudi*, at which time Parmesh, wife of Narender, was burning waste in their *rudi*. When the complainant objected, Parmesh allegedly started abusing her. It is further alleged that thereafter Narender @ Maid son of Harchand, Ram Kishan son of Har Chand and Mohan arrived at the spot armed with lathis and *dandas*. Narender is stated to have given a lathi blow on her right finger, Ram Kishan gave a lathi blow on her left thigh, and Mohan gave a *danda* blow on her back, causing her to fall to the ground, whereupon they allegedly inflicted kicks on her back and legs. On her raising an alarm, her husband Om Parkash and other persons reached the spot and rescued her. The accused then fled with their weapons. She was thereafter taken by her husband to Government Hospital, Bhiwani for medical treatment.

3 On this statement of complainant present case was registered. The matter was investigated. The accused were arrested. Challan was produced before this court as per Section 173, Cr.P.C. Statements of witnesses

were recorded under section 161 Cr.P.C.

4 On completion of investigation, copies of challan were supplied to the appellants free of costs as per the provision of Section 207 of Code of Criminal Procedure and charges were framed for having committed offence under Sections 323 and 325/34 of Indian Penal Code to which the appellants pleaded not guilty and claimed trial.

5 In order to prove its case, the prosecution examined six witnesses and also proved number of documents whereafter the entire incriminating evidence was put to the appellants, however, the allegations were denied by the appellants.

6 No evidence was led in the defence.

7 After considering the arguments advanced, the testimonies of witnesses, and the evidence placed on record, the Sub Divisional Judicial Magistrate, Loharu, vide his judgment dated 08.07.2016, discharged the appellants, holding that the prosecution had failed to prove its case against the appellants beyond the shadow of reasonable doubt.

8 Aggrieved of the above, the respondent No.2-complainant filed Criminal Appeal No.112 dated 06.08.2016/02.01.2019 before the Sessions Judge, Bhiwani. Vide judgment dated 08.04.2019 passed by the Additional Sessions Judge, Bhiwani, the judgment dated 08.07.2016 passed by the Sub Divisional Judicial Magistrate, Loharu was set aside. The appellants were convicted by the Additional Sessions Judge, Bhiwani, for commission of offence under Sections 323 and 325/34 of the Indian Penal Code, 1860. Vide order dated 10.04.2019 passed by the Additional Sessions Judge, Bhiwani, while hearing the appellants on quantum of sentence, the appellants were

ordered to be released on probation on their entering into bonds in the sum of Rs.50,000/- with one surety in the like amount.

9 Aggrieved thereof, the present appeal has been filed.

10 Learned counsel appearing on behalf of the appellants contends that even though the appellants have been released on probation, however, since a conviction has been recorded against the appellants, hence, they have suffered a disqualification as a result of order of conviction operating against them.

11 There is no representation on behalf of the respondent No.2-complainant. Hence, Ms. Pavneet Kaur, Advocate, (PH-10664-2025), who is present in the Court, is appointed as the Legal Aid Counsel to represent the case on behalf of respondent No.2 to arrive at a decision. She contends that argument of appellants is devoid of merits as Section 12 of the Probation of Offenders Act, 1958 specifically holds that once a person has been released on probation under the provisions of Section 3 and 4 of the Probation of Offenders Act, he does not suffer any disqualification attached to the conviction. Section 12 of the Act reads thus: -

*“12. **Removal of disqualification attaching to conviction.**— Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law: Provided that nothing in this section shall apply to a person who, after his release under section 4 is subsequently sentenced for the original offence.”*

12 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present appeal.

13 The challenge to the judgment of the Additional Sessions Judge, Bhiwani dated 08.04.2019 is primarily because the appellants apprehend disqualification in future. Such apprehension is clearly contrary to the statutory provisions enshrined under Section 12 of the Probation of Offenders Act. The fears being mere conjectural, the present appeal is dismissed. Consequently, the judgment of conviction dated 08.04.2019 and the order of sentence dated 10.04.2019 passed by the Additional Sessions Judge, Bhiwani, to release the appellants on probation are hereby affirmed.

14 Needless to mention that as the appellants have been released on probation, hence, the order of conviction in any case does not operate as a bar, in view of specific provision enshrined under Section 12 of the Probation of Offenders Act, unless, after the release, the accused is required to undergo the original sentence under Section 4 of the Probation of Offenders Act, for breach of the terms and conditions of the probation order. Thus, no further orders are required to be passed in the present case.

15 A copy of this order be also sent to the High Court Legal Services Committee, for further necessary action.

December 09, 2025.

raj arora

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*