

**CRR-1000-2022 & CRA-S-1223-2021****-2-**

Karnal, in case bearing FIR No.103 dated 25.02.2016 under Sections 148/149/323/324/452/307/506 of IPC registered at Police Station Assandh, Karnal, vide which the appellants (in CRA-S-1223-2021) have been convicted and sentenced as under:

Offence	Sentence
Section 148 of IPC	Rigorous imprisonment for one year each.
Sections 323/149 of IPC	Rigorous imprisonment for 06 months each.
Sections 324/149 of IPC	Rigorous imprisonment for 02 years each and to pay fine of Rs.1,000/- each, in default of which, to undergo rigorous imprisonment for 02 months.
Sections 452/149 of IPC	Rigorous imprisonment for 03 years each and to pay fine of Rs.2,000/- each, in default of which, to undergo rigorous imprisonment for 03 months.
Section 506 of IPC	Rigorous imprisonment for one year each.

It was ordered that all sentences shall run concurrently.

4. The facts in brief are that on 25.02.2016, the complainant alleged that his younger son, namely, Naresh Kumar (victim) had installed iron angle at the corner of their house, on account of which, accused-Nehru who lives at the back of their house, asked his son that why he had installed iron angle, upon which, the victim told him that for the strength of their house they were installing the same. Thereafter, the accused ran towards his house after saying that he would teach him a lesson and brought his brothers, Om Parkash, Joginder along with Rajo Devi, Suresh Devi and one more person of caste Dhiman and all of them trespassed into the house of the victim and attacked him with an intention to kill. Nehru was armed with *gandasi* and gave a blow on the head of Vinod Devi and gave second blow on her chest. Om Parkash



gave *gandasi* blow on the arm of Naresh Kumar while Joginder gave a *gandasi* blow on the left hand of Naresh Kumar and Dhiman gave *gandasi* blow to Naresh. Suresh Devi, Rajo Devi and children threw bricks from a distance. On raising cries for help, Hukam Singh, Sunny and Satish came running at the spot and upon seeing them, the accused persons ran away from the spot along with their weapons and extended threats to kill them. Thereafter, the FIR (*supra*) was registered.

5. After assessing the material available on record, the learned Additional Sessions Judge, Karnal convicted and sentenced the appellants vide judgment and order dated 30.09.2021. Aggrieved by the same, the appellants preferred an appeal before this Court.

6. Learned counsel for the appellants submits that the judgment passed by the learned trial Court is based on conjectures and surmises. It is contended that the appellants have no criminal antecedents and have family responsibilities. Further, the appellants have been facing trial for the last more than 09 years, and as such, the learned Additional Sessions Judge, Karnal should have considered releasing them on probation under Section 361 Cr.P.C. read with Sections 3 and 4 of the Probation of Offenders Act, 1958.

7. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the appellants and submits that the appellants have been convicted by the learned Additional Sessions Judge, Karnal based on correct appreciation of the facts and the law.



8. Learned counsel for the petitioners/victims submits that the accused inflicted injuries to the petitioners for which they remained admitted in the hospital and incurred amount on the treatment and special diet. However, learned trial Court had not awarded any compensation.

9. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that appellants No.1 to 5 are approximately 62, 55, 48, 56 and 59 years of age as on date, respectively. They are facing trial since last more than 09 years and have no criminal antecedents.

10. Sections 3 and 4 of the Probation of Offenders Act, 1958 empower the Courts to release the convicts if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C also allow the Courts to release convicts on probation for good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in **Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in **Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763** speaking through Justice Sanjay Kishan Kaul, has held as under:-



“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

11. 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.

12. However, the plight of the complainant/petitioners/victims and the loss suffered by them cannot be overlooked. Significantly, the injured/complainant had suffered injuries substantial enough to attract offences punishable under Sections 323/324 of the IPC. 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 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.

To balance the rights of the complainant with the benefit of probation extended to the accused/appellants, this Court deems it expedient to direct the accused/appellants to pay compensation of Rs.20,000/- to the complainant/victims within one month. While compensation can never fully redress the suffering endured by the complainant/victim, it is a step toward acknowledging the hardship faced by them, with an aim to meaningfully contribute towards their rehabilitation.

13. In view of the facts and circumstances of the case, both the revision petition and the appeal are hereby disposed of, in the following terms:-

1)The judgment dated 30.09.2021 passed by the learned Additional Sessions Judge, Karnal, is upheld.

2)The order of sentence dated 30.09.2021 passed by the learned Additional Sessions Judge, Karnal, is modified to the



extent of granting the concession of probation to the appellants for good conduct.

3)The appellants shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each with a surety for the same amount each, after furnishing an undertaking to keep the peace and good behaviour for a period of one year to the satisfaction of the concerned trial Court within four weeks.

4)The appellants shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the appellants fail to comply with the said directions or commit breach of the undertaking rendered by them, they shall be called upon to undergo the sentence imposed upon them by the learned Additional Sessions Judge, Karnal.

5)The accused/appellants shall pay compensation of Rs.20,000/- to the complainant/victim/petitioners within one month from the date of receipt of certified copy of this order.

14. A photo copy of this order be placed on the file of connected case.

(HARPREET SINGH BRAR)
JUDGE

06.05.2025

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No