

CRR-2494-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2494-2023 (O&M)

Date of Decision: 28.01.2025

SHRI KRISHAN

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amandeep Singh, Advocate for
Mr. Chanderhas Yadav, Advocate for the petitioner.

Mr. Ajay Kumar Yadav, Advocate for Mr. Kuldeep Sharma, Advocate
for respondents No. 2 to 5.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. The present revision petition is preferred against the judgment dated 16.09.2017 passed by learned Judicial Magistrate Ist Class, Narnaul vide which the respondents No. 2 to 4 were convicted under Sections 323 and 325 read with Section 34 of Indian Penal Code and order on quantum of sentence dated 19.09.2017 vide which they were granted the concession of probation and released on probation of good conduct for a period of one year and the appeal filed against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Narnaul vide judgment dated 29.08.2023.

2. Brief facts of the case are that complainant claims to be a resident of village Bhojawas PS Nangal Choudhary. The complainant has five brothers and the land, houses of the brothers are still joint. A case to partition the joint properties is pending adjudication in the court. The complainant and his brother Ramesh have constructed adjacent houses but the complainant resides with his

family at village Sihma. It was contended that the accused intend to usurp the



property of the complainant, fought with him and beat him. It was claimed that the accused had broken the door of the complainant's house, had tried to forcefully take the possession of the house as a result of which a formal complaint was filed in the police station where Kalendera under Sections 107/151 Cr.P.C. was submitted against the complainant and accused. It has been averred that on 25.07.2013, the complainant observed that Ramesh and his son getting the broken wall of the complainant's house repaired. At about 1 PM on the same day, the complainant and his wife Rajbala came to their house where the masons were carrying out construction. When the complainant directed the mason not to carry out any construction, the accused Ramesh and Sandeep got enraged. It was contended that the accused Sandeep hit on the ring finger of the left hand of the complainant with a stick. Accused Ramesh was submitted to have hit on the elbow of the right hand of the complainant with a stone. When the complainant's wife Rajbala tried to intervene, Munesh wife of Ramesh and Ramkalan wife of Hoshiyar hit Rajbala and the complainant with stones as well as bricks. The assailants were claimed to be accompanied by an unknown person who also hit the complainant and his wife with stones and bricks. It was stated that a large crowd gathered at the spot and the complainant, his wife were saved by Mahender Singh and Dharambir. It was alleged that while leaving the accused threatened the complainant that he shall be killed in future.

3. On assessing all the material available on the record, the learned trial Court vide judgment dated 16.09.2017 convicted the respondents No. 2 to 4 for offences punishable under Sections 323 and 325 read with Section 34 of Indian Penal Code and released them on probation of good conduct for a period of one year vide order on quantum of sentence dated 19.09.2017 and the appeal

dismissed by learned Additional Sessions Judge, Narnaul vide judgment dated 29.08.2023.

4. Learned counsel for the petitioner contends that the learned Courts below have fallen into grave error by awarding the benefit of probation to the accused-private respondents for a period of one year as the said order is based on untenable grounds. The charge against the respondents-accused stands duly proven by all the prosecution witnesses and as such, the learned Courts below ought not to have granted the benefit of probation to them.

Learned counsel for the petitioner further submits that injuries suffered by the petitioner-complainant have been duly proved on record by PW-2 Dr. Rakesh Khatak, MO CHC Loharu. The following injuries were suffered by the complainant:

- i. Lacerated wound over right forearm of size about 7x2 cm. No fresh bleeding present. (X-ray right forearm and ortho opinion advised)
- ii. Crushed injury present over left hand's ring finger at proximal part. (X-ray left hand and ortho opinion advised).
- iii. Pain present over back at thoracto lumber area. (Simple in nature).

Learned counsel further submits that the benefit of probation has been extended by learned Courts below, however, provisions contained in Section 5 of Probation of Offenders Act has not been invoked. The petitioner-complainant has also suffered the agony of trial since the year 2013.

5. Learned State counsel supports the impugned judgments and submits that the respondents-accused 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 with their able assistance, it transpires that respondents-accused have maintained good conduct and do 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 them. 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. A Co-ordinate bench of this Court in *Nasri v. State of Haryana 2023(2) Law Herald 2203*, speaking through Justice Arun Monga, made the following observations:

“11.2. Objectives and principles of criminal law as envisioned in the provision ibid, apart from deterrence against committing crime against society, are inter-alia focused on the reformation of offenders, which inheres the concept of probation. Modern criminal justice system often aims to balance punishment with rehabilitation, emphasizing the potential for positive change in individuals who have committed crime. The goal of criminal law extends beyond mere punishment. While punishment serves to deter and hold individuals accountable for their actions, there is a growing recognition of the importance of addressing the underlying factors that contribute to criminal behaviour. This perspective emphasizes the potentials of offenders to reform and reintegrate into society as law-abiding citizens. Probation is one of the mechanisms used to achieve this reformation objective. In certain cases, certain offenders may be asked to remain under community supervision rather than being incarcerated. During such probation period, the offender can be put to follow certain conditions, such as regular reporting to a probation officer, participating in counselling or treatment programs and maintaining employment or education. The aim is to provide support, guidance and opportunities for the offender and to address the root causes of their criminal behaviour and develop positive life skills. Close monitoring and guidance provided

during probation can help the offender make positive changes in their life and reduce the likelihood of re offending.”

7. In light of the above, this Court finds no infirmity or perversity in the judgment of the learned Courts below granting the benefit of probation to the private respondents. Thus, the present petition stands dismissed.

8. However, the plight of the petitioner-complainant and the loss suffered by him cannot be overlooked. Significantly, the complainant had suffered injuries substantial enough to attract offences punishable under Sections 323 and 325 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 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 petitioner-complainant with the benefit of probation extended to the private respondents, this Court deems it expedient to direct the private respondents to pay compensation of Rs. 7,500/- each (totaling to Rs. 15,000/-) to both the petitioner and his wife. While compensation can never fully redress the suffering endured by the petitioner-

complainant, it is a step toward acknowledging the hardship faced by him, with an aim to meaningfully contribute towards his rehabilitation.

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

(HARPREET SINGH BRAR)
JUDGE

28.01.2025
Ajay Goswami

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