



253 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-448-2023

Date of decision: 13.02.2025

NIDHI CHHIKARA

...PETITIONER

V/S

UNION TERRITORY CHANDIGARH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sudhir Kr. Pandey, Advocate for
 Mr. Sanjeev Majra, Advocate for the petitioner.

Mr. Akashdeep Singh, Addl. P.P., UT Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against judgment dated 16.09.2022 passed by the learned Additional Sessions Judge, Chandigarh whereby the judgment of conviction dated 18.04.2017 passed by the learned Judicial Magistrate Ist Class, Chandigarh, was upheld while the order of sentence was modified and the respondents-accused were released on probation in the case stemming from FIR No.424 dated 19.10.2012 registered under Sections 323, 354, 506, 34 at Police Station Manimajra, Chandigarh.

2. Brief facts of the case of the prosecution are that on 18.10.2012 complainant Nidhi Chikara (petitioner herein) along with her staff were present in Fun Republic Cinema, Chandigarh for the premier show of the movie named "Burra". The complainant was co-producer of the movie and was scheduled to give interview to the press before its official release. Before the interview could commence the accused persons called her and gave several beatings. When brother of the complainant namely Mukul Chikara tried to



intervene, the accused persons caught hold him and also gave several beatings.

On the basis of complaint FIR was registered. After assessing the evidence led, the learned trial Court convicted the respondents-accused and sentenced them to undergo rigorous imprisonment for 06 months for offence under Sections 323 IPC and respondent No.4-accused was also sentenced to undergo rigorous imprisonment of six months for offence under Section 506 IPC and it was ordered that both sentences of respondent No.4/accused Vikas Puri shall run concurrently. Aggrieved by the same, the private respondents-accused filed an appeal before the learned lower Appellate Court resulting in modification of the sentence imposed upon them as they were released on probation.

3. Learned counsel for the petitioner contends that the learned lower Appellate Court fell into error by releasing private respondents/accused on probation as the same is based on untenable grounds. The charges against them stand duly proven by all the prosecution witnesses and the learned trial Court has rightly convicted the accused. As such, the learned lower Appellate Court ought not to have acquitted and granted the benefit of probation to them. Further, the learned Court below had not awarded any compensation, which has caused injustice to the petitioner. As such, the learned Court below has erred in releasing them on probation as they deserve to be awarded the maximum punishment.

4. Learned State counsel submits that the Court below has passed a well reasoned judgment after appreciating the material evidence placed on record.

5. Having heard learned counsel for the parties and after perusing the record, it transpires that learned lower Appellate Court has upheld the conviction of private respondent/accused while releasing them on probation.



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.

6. In light of the above, this Court finds no infirmity or perversity in the judgment of the learned lower Appellate Court granting the benefit of probation to the private respondents. However, the plight of the petitioner-complainant and the loss suffered by her cannot be overlooked. Significantly, the petitioner had suffered injuries substantial enough to attract offence punishable under Section 323 of the IPC. The petitioner 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.*

- 7. To balance the rights of the petitioner-complainant with the benefit of probation extended to accused/private respondents, this Court deems it expedient to direct respondent Nos.2 to 4 to pay compensation of Rs.10,000/- each (total Rs.30,000/-) to the petitioner, within two months from today. While compensation can never fully redress the suffering endured by the petitioner-complainant, it is a step toward acknowledging the hardship faced by him/her, with an aim to meaningfully contribute towards her/his rehabilitation.
- 8. Disposed of, accordingly.
- 9. A copy of this order be sent to learned trial Court for necessary compliance through fax.

February 13, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |