



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

CRR-250-2025

Date of decision: 20.02.2025

ANUJ CHAWALA

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tarun Singhal, Advocate for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against order dated 07.11.2024 passed by the learned Additional Sessions Judge, Fatehabad, whereby, application for condonation of delay in filing the appeal against the judgment of conviction dated 08.02.2021 and order of sentence dated 10.02.2021 passed by learned Chief Judicial Magistrate, Fatehabad has been dismissed.

2. Brief facts of the case of the prosecution are that on 25.09.2017, when the complainant was present at his father's shop, accused-Maninder Kumar (respondent No.2 herein) came there and caught hold of right hand of the complainant and twisted it. Further, the accused abused the complainant and scrambled with him and when the father of the complainant came at the spot, accused/respondent No.2 fled away from the shop by threatening that he would come along with other persons. Hence, the FIR (*supra*) was registered.

3. After assessing the evidence led, the learned trial Court convicted respondent No.2 and released him on probation under Section 4 of Probation



of Offenders Act (hereinafter referred to as the 'Act') for a period of 06 months. Aggrieved by the same, the petitioner/complainant filed an appeal along with application for condonation of delay before the learned lower Appellate Court, however, delay in filing the appeal was not condoned. Hence, the present revision petition has been filed.

4. Learned counsel for the petitioner submits that on the basis of the complaint made by the petitioner, an FIR was registered against respondent No.2 and was held guilty of offence under Sections 323/325 IPC and was acquitted from the charges under Section 452 IPC. However, the learned trial Court released respondent No.2 on probation for 06 months by invoking the provisions of Section 4 of the Act. Further, it is admitted fact that the petitioner has received grievous injuries in the right hand little finger and he has also faced the agony of trial since year 2017 and it is a trite law that the provision of Section 4 of the Act cannot be invoked in isolation. The petitioner is entitled to compensation in view of the provisions contained in Section 5 of the Act.

5. Learned counsel further submits that respondent No.2/accused was granted the benefit of probation and was directed to maintain peace for a period of six months from the date of order passed on 10.02.2021. However, on 12.11.2021, the petitioner has made a complaint to the jurisdictional police authorities (Annexure P-2), in which, he has categorically stated that respondent No.2 has quarreled with him 02 days ago and abused him and threatened to kill him. A criminal complaint was also made on 07.01.2022 to the Superintendent of Police, Fatehabad in this regard. As such, respondent No.2 has misused the concession of probation.



6. Keeping in view the settled law and the statutory provisions contained in the Act, this Court is disposing of the case, without issuing notice to respondent No.2 and to save the judicial time and the litigating cost of respondent No.2. Mr. Rupinder Singh Jhand, Addl. A.G., Haryana, who is present in the Court, accepts notice on behalf of respondent No.1-State. He could not controvert the factual position that the petitioner has suffered a fracture attracting the offence under Section 325 IPC.

7. Having heard learned counsel for the parties and after perusing the record, it transpires that order of quantum of sentence passed by learned Chief Judicial Magistrate, Fatehabad, in the instant case was that respondent No.2 was released on probation for 06 months and he was directed to maintain peace and good behaviour from the date of order passed on 10.02.2021. The incident, which the petitioner has reported to jurisdictional police authorities by filing a complaint (Annexure P-2) had taken place on 10.11.2021 i.e. after the expiry of the period of maintaining peace. 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.



8. 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 respondent No.2. However, the plight of the petitioner-complainant and the loss suffered by him cannot be overlooked. Significantly, the petitioner had suffered injuries substantial enough to attract offence punishable under Sections 323 and 325 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.

9. To balance the rights of the petitioner-complainant with the benefit of probation extended to accused/respondent No.2, this Court deems it expedient to direct respondent No.2 to pay compensation of Rs.15,000/- 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.

- 10. Learned Chief Judicial Magistrate Fatehabad is directed to ensure the compliance of the order passed by this Court.
- 11. Disposed of, accordingly.
- 12. A copy of this order be sent to learned Chief Judicial Magistrate Fatehabad through fax for necessary compliance.

February 20, 2025
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(HARPREET SINGH BRAR)
JUDGE

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