



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

203

**CRR No.2667 of 2010 (O&M)
Date of Decision: 11.02.2026**

Resham Singh and others

.....Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Rakesh Kumar, Advocate for
Mr. Rajveer Singh, Advocate for the petitioner No.1.

Proceedings qua respondent No.2 abated
vide order dated 12.01.2026.

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 325, 324, 323, 148 and 149 of Indian Penal Code, the FIR No.84 dated 27.06.2001 was lodged in Police Station City Ghall Khurd. Once the FIR was lodged, the investigation was taken up by the police, and as an outcome of abovesaid investigation, the petitioners were sent to the Court of learned Judicial Magistrate Ist Class Ferozepur, hereinafter being referred to as 'trial Court', to face trial for the commission of abovementioned offence.

2. The petitioners participated in the abovementioned trial, which by virtue of judgment dated 04.01.2008 culminated into their conviction. Thus vide order on the point of quantum of sentence, dated 04.01.2008, the petitioners were sentenced as under:-



Name of accused	Under Sections	Sentence (each)	Fine	In default of payment of fine
Lakhbir Singh, Resham Singh and Bhinder Singh	323 IPC	Rigorous imprisonment for 6 months	200/-	10 days
	148 IPC	Rigorous imprisonment for 1 year	300/-	15 days
	325 IPC	Rigorous imprisonment for 2 years	700/-	One month
	324/149 IPC	Rigorous imprisonment for 1 year	300/-	15 days

3. All the sentences were ordered to run concurrently.
4. Aggrieved of the abovementioned judgment of conviction and order of sentence, the petitioners preferred an appeal in the Court of Sessions, hereinafter being referred to as ‘Appellate Court’. The judgment of conviction was modified in the appeal preferred by the petitioners by virtue of judgment dated 25.05.2010 and sentence was reduced from two years to one year for the commission of offence punishable under Section 325/34 IPC.
5. Feeling aggrieved of the judgment of conviction and order of sentence dated 04.01.2008, passed by the learned trial Court, and also of the judgment dated 25.05.2010 passed by the learned Appellate Court, the present revision petition has been preferred by the petitioners.
6. In nut-shell, the facts emerging from record are that the FIR of this case came into being on the basis of statement of complainant ‘Udham Singh’ hereinafter being referred to as ‘complainant’ only. It was stated by the



above-named complainant that in the morning of 27.06.2001, when he was cycling with his son 'Jagsir Singh', and 'Major Singh' son of 'Jarnail Singh' near the fields of 'Yodh Singh', the petitioners launched an attack and exhorted that he (complainant) should be taught a lesson for daily quarrel with them. According to complainant 'Resham Singh' caught hold of him and 'Bhupinder Singh' inflicted blows (sua) on his right and left legs, 'Lakhbir Singh' with sticks blows on his right and left arm, 'Balwinder Kaur' on his waist with sticks and 'Nachhatar Singh' with sticks on his forehead, and backside of right knee, near the ankle. As per complainant, thereafter all the assailants fled from the spot.

7. It is the case of the prosecution that on the basis of abovementioned statement, formal FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of investigation, the Investigating Officer inspected the spot, prepared rough site plan of the place of occurrence and completed other usual formalities of investigation, including arrest of the accused. Thereafter, the final report under Section 173 of Cr.P.C. was filed.

8. To discharge its burden with regard to charge against the petitioners, the prosecution in the instant case had relied upon documentary as well as oral evidence. The documents relied upon, and marked with exhibits, by the prosecution were as under:-

Ex.P1 - Statement of complainant

Ex.PW3/A - Arrest memo and other memo
to
Ex.PW3/E

Ex.PW4/A - Recovery memo



Ex.PW4/B Investigating Officer taken possession of
recovery memo

9. To provide support and corroboration to the above-mentioned documentary evidence, as many as seven witnesses had been examined by the prosecution. Those witnesses were:-

- PW-1 - Udham Singh (reiterated his statement)
- PW-2 - Jagsir Singh (eye-witness)
- PW-3 - HC Kulbir Singh who prepared memos
- PW-4 - HC Jaswinder Singh prepared recovery
memo
- PW-5 - ASI Sardool Singh, Investigating Officer
who proved his investigation
- PW-6 - Dr. Jasbir Singh
- PW-7 - Dr. Hardit Jyoti

10. Once the prosecution evidence was completed, the learned trial Court completed the essential formalities as enshrined under Section 313 Cr.P.C.

11. Once the evidence was complete, the learned trial Court gave an opportunity to the petitioners as well as prosecution to address arguments, and thereafter, returned the judgment of conviction against the petitioners, which was modified by the learned Appellate Court and sentence of petitioners qua Section 325-34 IPC was reduced from two years to one year.

12. The instant petition has been filed by the petitioners by alleging that the petitioners were wrongly prosecuted and held guilty, despite the fact



that there was no fault on their part. According to petitioners, the learned trial Court, vis-à-vis the learned Appellate Court, failed to appreciate the evidence available on record, which was not sufficient and good enough to meet the standard prescribed under the law, for proving a charge in a criminal case. As per petitioners, merely on the basis of conjectures and surmises, the learned trial Court, vis-à-vis the learned Appellate Court have observed that the charge against them with regard to commission of aforesaid offences had been proved.

13. It has been further pleaded by the petitioners that the evidence adduced by the prosecution was deficient and inconsistent, and that on the basis of abovementioned evidence, the finding of conviction could not have been returned, but the learned trial Court on the basis of presumptions and assumptions believed the evidence adduced by the prosecution and unfortunately the abovesaid erroneous view of learned trial Court has been affirmed by the learned Appellate Court. The petitioners have sought for intervention of this Court in both the judgments.

14. Heard.

15. During the course of arguments, the learned counsel for the petitioners has come forward with a plea that the petitioners are already suffering agony of trial in a criminal case for the last more than 24 years (approximately 25 years), and that the learned trial Court and the learned Appellate Court had not given the benefit of doubt, despite contradictions in the statements of prosecution witnesses.

16. The learned counsel for the petitioners has also argued that in view of abovementioned developments in the instant revision petition, the petitioners are not inclined to challenge the finding of conviction recorded by



the learned trial Court, duly modified/affirmed by the learned Appellate Court. The learned counsel for the petitioners has categorically contended that at this stage, by virtue of present petition, the petitioners are only challenging the order on the quantum of sentence. It has been further contended by learned counsel for the petitioners that since the petitioners have clean record, they craves for the benefit of probation/admonition.

17. As per learned counsel for the petitioners, the petitioners are not a habitual offender and that instant prosecution is the only prosecution faced by the petitioners in their entire life. According to learned counsel for the petitioners, the instant case is a fit case, wherein in view of nature of offence committed by the petitioners, they are entitled for the benefit of probation/admonition because they never indulged in any kind of criminal activity.

18. The abovementioned arguments have been controverted by the learned State Counsel. According to learned State Counsel, in the present case the allegations against the petitioners are with regard to commission of offence punishable under Sections 323, 324, 325, 148 and 149 of IPC, and in the above mentioned incident victim has suffered multiple injuries including grievous injuries and the offence is duly proven by the prosecution. According to learned State counsel, the sentence awarded to the petitioners, i.e. imprisonment for a period of 1 one year, is already on lower side. As per learned State counsel the petitioners are liable to undergo the sentence of imprisonment awarded by the learned trial Court.

19. The learned State counsel has further contended that gravity of offence committed by the petitioners renders them ineligible for any lenient



view. According to learned State counsel, the petitioners are not entitled for the benefit of probation/admonition.

20. The arguments addressed on behalf of both the parties have been duly considered and the record has been perused carefully.

21. As far as the present revision petition is concerned, there are two points, which are supposed to be determined by this Court:

- i) Whether the finding recorded by the learned trial Court with regard to proof of charge against the petitioners, needs interference and indulgence of revisional jurisdiction of this Court.
- ii) If first point is answered against the petitioners, whether the petitioners are entitled for the benefit of probation/admonition.

POINT NO.I

22. As far as this point is concerned, at the threshold it is relevant to mention here that the findings recorded by the learned trial Court with regard to judgment of conviction, have not been challenged by the learned counsel for the petitioners during the course of arguments. Otherwise also, the record has been perused carefully and a perusal of evidence adduced by the prosecution before the learned trial Court shows that the abovementioned evidence was thoroughly consistent, reliable and good enough to bring home guilt of the petitioners for the commission of offence punishable under Sections 323, 324, 325, 148 and 149 of IPC.

23. It is also relevant to mention here that the findings recorded by the learned trial Court, vis-à-vis the learned Appellate Court are well-reasoned findings, and thus, it is hereby held that there is no scope for interference or indulgence in the finding recorded by the learned trial Court with regard to



conviction of petitioners under Sections 323, 324, 325, 148 and 149 of IPC, modified/affirmed by the learned Appellate Court.

24. Accordingly, the abovementioned finding is hereby affirmed, and as an outcome of abovementioned finding, the point of determination No.1 framed in this petition is hereby answered against the petitioners.

POINT NO.II

25. With regard to above point of determination, it is relevant to mention here that similar question has been dealt with by the Hon'ble Supreme Court of India in the case of 'Sita Ram Paswan and Anr. Vs. State of Bihar', 2005(13) SCC 110, 'Hansa Vs. State of Punjab', 1977(3) SCC 575 and by this Court in the case of 'Darshan Singh Vs. State of Punjab', 2004(1) RCR (Criminal) 979, wherein for the commission of offence punishable under Sections 323, 324 and 325 of IPC, the Hon'ble Supreme Court of India and this Court accorded the benefit of probation.

26. The relevant principles have also been propounded by the Hon'ble Supreme Court of India in the case of 'Jugal Kishore Prasad v. State of Bihar' (1972) 2 SCC 633. The Hon'ble Supreme Court of India while considering the scope of the Probation Act has held as under: -

“The Probation of Offenders Act was enacted in 1958 with a view to provide for the release of offenders of certain categories on probation or after due admonition and for matters connected therewith. The object of the Act is to prevent the conversion of youthful offenders into obdurate criminals as a result of their association with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The above object is in consonance with the present trend in the field of penology, according to which effort should be made to



bring about correction and reformation of the individual offenders and not to resort to retributive justice. Modern criminal jurisprudence recognises that no one is a born criminal and that a good many crimes are the product of socioeconomic milieu. Although not much can be done for hardened criminals, considerable stress has been laid on bringing about reform of young offenders not guilty of very serious offences and of preventing their association with hardened criminals. The Act gives statutory recognition to the above objective. It is, therefore, provided that youthful offenders should not be sent to jail, except in certain circumstances. Before, however, the benefit of the Act can be invoked, it has to be shown that the convicted person even though less than 21 years of age, is not guilty of an offence punishable with imprisonment for life. This is clear from the language of Section 6 of the Act. Sub-section (1) of that section reads as under: -

“When any person under twenty-one years of age is found guilty of having committed an offence punishable with imprisonment (but not with imprisonment for life), the Court by which the person is found guilty shall not sentence him to imprisonment unless it is satisfied that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it would not be desirable to deal with him under Section 3 or Section 4, and if the Court passes any sentence of imprisonment on the offender, it shall record its reasons for doing so.”

27. The similar question was considered by the Hon’ble Supreme Court of India in a subsequent judgment, i.e. in the case of ‘Chellammal and Another v. State’ 2025 SCC Online SC 870. In the abovementioned case, the



Hon'ble Supreme Court of India has observed as under: -

“On consideration of the precedents and based on a comparative study of Section 360, Cr. P.C. and subsection (1) of Section 4 of the Probation Act, what is revealed is that the latter is wider and expansive in its coverage than the former. Inter alia, while Section 360 permits release of an offender, more twenty one years old, on probation when he is sentenced to imprisonment for less than seven years or fine, Section 4 of the Probation Act enables a court to exercise its discretion in any case where the offender is found to have committed an offence such that he is punishable with any sentence other than death or life imprisonment. Additionally, the non-obstante clause in subsection gives overriding effect to sub-section (1) of Section 4 over any other law for the time being in force. Also, it is noteworthy that Section 361, Cr. P.C. itself, being a subsequent legislation, engrafts a provision that in any case where the court could have dealt with an accused under the provisions of the Probation Act but has not done so, it shall record in its judgment the special reasons therefor.

What logically follows from a conjoint reading of sub-section (1) of Section 4 of the Probation Act and Section 361, Cr. P.C. is that if Section 360, Cr. P.C. were not applicable in a particular case, there is no reason why Section 4 of the Probation Act would not be attracted.

Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4



of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfillment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the court to record the reasons therefor.”

28. Considering the fact that factual matrix of the present case is squarely covered by the principles of law propounded in the abovementioned cases, it is hereby held that instant case, too, is a fit case, wherein the petitioners, who don't have criminal history and are facing agony of trial for the last almost 25 years, are entitled for the benefit of probation/admonition. As an outcome of abovementioned observations, the point of determination No.II framed in this petition is hereby answered accordingly, i.e. in favour of petitioners.

CONCLUSION:

29. As a sequel to abovementioned observations, the plea of the petitioners with regard to benefit of probation deserves to be accepted. Consequently, by partly accepting the present revision petition, the sentence awarded to the petitioners is hereby modified and the benefit of probation is accorded to the petitioners. They are directed to furnish requisite bonds of good behaviour to the satisfaction of learned Chief Judicial Magistrate



Ferozepur, who shall be at liberty to exercise his discretion for imposing conditions upon the petitioner. Needless to say that if the bonds are executed, the petitioners would be released on probation for a period specified by the learned Chief Judicial Magistrate Ferozepur.

30. The revision petition stands disposed of, accordingly. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

11.02.2026
Manoj Bhutani

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