



**CRR-725-2025 (O&M) and  
CRR-755-2025 (O&M)**

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

**Date of decision: 4<sup>th</sup> April, 2025**

**112 CRR-725-2025 (O&M)**

Ram Kishan

...Petitioner

Versus

State of Haryana

...Respondent

**113 CRR-755-2025 (O&M)**

Krishan

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Ram Avtar Sheoran, Advocate for the petitioner.  
(in CRR-725-2025)

Mr. Surinder Gandhi, Advocate for the petitioner.  
(in CRR-755-2025)

Mr. Apoorv Garg, Sr. DAG, Haryana.

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**MANISHA BATRA, J (ORAL):-**

The above mentioned petitions are being disposed of by this common order as they have been preferred against common judgment of conviction dated 04.10.2017 and order on quantum of sentence dated 06.10.2017 passed by the Court of learned Judicial Magistrate First Class, Bhiwani in case arising out of FIR No. 02 dated 28.01.2014 registered under Section 3 of Railway Property (Unlawful possession) Act, 1966 (for short,



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'*the Act, 1966*'), whereby the petitioners were held guilty under Section 3 of the Act, 1966 and were sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs. 1,000/- each and to further undergo simple imprisonment for fifteen days in case of default of payment of fine. Challenge is further made to the judgment dated 03.03.2025 passed by the First Appellate Court in criminal appeal No. 07 of 2017, thereby upholding the findings of the trial Court.

2. The aforementioned FIR was registered on the allegations that on 28.01.2014, on the basis of a secret information, the petitioner Krishan and accused Sanjay were apprehended with two railway sign boards with frames and one iron angle which was railway property. They were interrogated. Accused Sanjay disclosed that in connivance with the petitioner Ram Kishan, he had stolen those boards and iron angle. The petitioner Ram Kishan was also arrested. After completion of investigation, challan was presented against the petitioner and co-accused. They were charge-sheeted under Section 3 of the Act, 1966 and pleaded not guilty of the same and claimed trial.

3. To substantiate its case, prosecution examined as many as six witnesses besides placing reliance upon documentary evidence and thereafter, prosecution evidence was closed. Statements of petitioners and co-accused were recorded under Section 313 of Cr.P.C.. They pleaded false implication and abjured their guilt. No defence evidence was added.

4. After hearing rival contentions of both sides, the learned trial Magistrate held the petitioners and co-accused guilty and sentenced them in the manner as indicated above.



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5. The judgment of learned trial Magistrate was upheld by the First Appellate Court.

6. Learned counsel for the petitioners has submitted that he does not intend to challenge the conviction of the petitioners as recorded by the Courts below. It is, however, submitted by him that since the petitioners are facing the agony of criminal prosecution for the last more than ten years, they are not involved or convicted in any other criminal case and as out of period of sentence of one year imposed upon them, they have already undergone a period of more than one month, therefore, they may be extended benefit of probation.

7. *Per contra*, learned State counsel has submitted that the petitioners do not deserve to be extended benefit of probation as they were found in unlawful possession of railway property.

8. On considering the rival contentions of both sides and on going through the impugned orders passed by the Courts below on question of sentence, this Court is of the view that the petitioners can be granted benefit of probation irrespective of the fact that the law prescribes minimum sentence of imprisonment of one year for the offence punishable under Section 3 of Act, 1966. In this regard, reliance is placed upon the observations made by a Co-ordinate Bench of this Court in criminal revision No. 483 of 2008 titled as '*Mange Ram Vs. State of Haryana*' decided on 28.08.2016 as well as by High Court of Madhya Pradesh in *State by Public Prosecutor Vs. Rathinavelu 1973 Criminal Law Journal 354*, wherein it was observed that despite the fact that minimum sentence of imprisonment with fine has been prescribed by the legislature for a person found guilty



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under Section 3 of the Act, 1966, the Court can still resort to the provisions of probation of offenders Act. Keeping in view the fact that the petitioners are facing the agony of criminal prosecution for the last more than 14 years and they are not previous convicts, in the opinion of this Court, the ends of justice would be considerably met if their sentences for imprisonment are set aside and they are ordered to be released on probation. In view of the discussion as made above, the conviction of the petitioners under Section 3 of the Act, 1966 is upheld, however, their sentences are set aside and they are ordered to be released on probation subject to their furnishing bonds in the sum of Rs. 50,000/- with one surety in the like amount each to the satisfaction of the concerned trial Magistrate/Chief Judicial Magistrate, to keep peace and be of good behaviour for a period of one year and receive sentence as and when called upon to do so. The fine amount, if already deposited would be treated as costs of proceedings.

9. Both the revision petitions are disposed of accordingly, as partly allowed.

10. Since the main petitions have been disposed of, pending application, if any, is rendered infructuous.

11. Photocopy of this order be placed on the file of connected case.

**[MANISHA BATRA]  
JUDGE**

**4<sup>th</sup> April, 2025**

*Parveen Sharma*

1. *Whether speaking/ reasoned* : *Yes / No*  
2. *Whether reportable* : *Yes / No*