



CRA-S-4250-SB-2018 and one more case

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

**1. CRA-S-4250-SB-2018 (O&M)
Date of Decision: 06.03.2025
JITENDER AND ANOTHER ...Appellants**

Versus

STATE OF HARYANA ...Respondent

**2. CRA-S-4221-SB-2018 (O&M)
Date of Decision: 06.03.2025
ROHIT AND OTHERS ...Appellants**

Versus

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parveen Kumar, Mr. Mohit and

Mr. Pal Singh, Advocates for Mr. Abhimanyu Singh, Advocate
for the appellants in CRA-S-4250-SB-2018
and for the complainant in CRA-S-4221-SB-2018.

Mr. Rahul Dev, Addl. AG Haryana.

Mr. Anil Ghanghas, Advocate
for the appellants in CRA-S-4221-SB-2018
and for the complainant in CRA-S-4250-SB-2018.

Harpreet Singh Brar, J. (Oral)

1. Both the aforementioned appeals are decided by this common order
as both the cases are inter-connected to each other.

2. **Prayer in CRA-S-4250-SB-2018**

This appeal has been filed against the judgment of conviction and
order on quantum of sentence dated 12.10.2018/16.10.2018 passed by learned
Additional Sessions Judge, Bhiwani, vide which the appellants have been
convicted under Section 323 of Indian Penal Code and Section 3(2)(va) of The
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and
sentenced to undergo rigorous imprisonment for one year and total fine of
Rs. 2,000/- each was imposed upon them with default mechanism.

3. **Prayer in CRA-S-4221-SB-2018**

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This appeal has been filed against the judgment of conviction and order on quantum of sentence dated 12.10.2018/16.10.2018 passed by learned Additional Sessions Judge, Bhiwani, vide which the appellants-Rohit and Mohit were convicted under Section 323 of Indian Penal Code and appellant-Rajbala was convicted under Sections 323/325 of Indian Penal Code and appellants Rohit and Mohit have been sentenced to undergo rigorous imprisonment for one year and total fine of Rs. 1,000/- each was imposed upon them with default mechanism, whereas appellant-Rajbala was sentenced to undergo rigorous imprisonment for two years and fine of Rs. 2,000/- was imposed upon her with default mechanism.

4. Facts of the case are taken from CRA-S-4221-SB-2018 and the same are as under:

The brief facts of the prosecution case are that on 22.09.2016. complainant Jitender moved an application to the police to the effect that on 21.09.2016 at about 6.00 P.M. his elder and younger sons were present in the house and he was coming from the house of his friend Sunny on INNOVA vehicle bearing registration No. HR-16Q/0827 and when he reached near the house of Rajbala then she threw a chair on his vehicle. When he asked her for doing so then she started quarreling with him and at that time her two sons also came there with deadly weapons and attacked upon him. Rajbala gave a *danda* blow on his right hand. Rahit tried to attack upon him with a weapon like knife and when he tried to run away then he fell down on the ground. Thereafter Mohit also gave a *danda* blow on his back. At that time, his son Shubham came there on hearing his cries. Upon that Mohit and Rohit also caused injuries to his son Shubham. Thereafter, his elder son and neighbourers also came there and rescued them from the clutches of the accused persons and got them admitted in

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GH Bhiwani. On the basis of this complaint of complainant Jitender, a DDR was recorded and a cross case was registered against the accused persons in FIR No.407 dated 22.9.2017. During investigation, statements of witnesses were recorded. Accused Rohit, Mohit and Rajbala were arrested.

5. After assessing the material available on record, the learned trial Court(s) convicted and sentenced the appellants vide judgment and order dated 12.10.2018/16.10.2018. Aggrieved, against the said judgments and orders, the appellants have preferred the present appeals.

6. Learned counsel for the appellant(s) in both the appeals are *ad idem* that appellants are co-villagers and these are cases of version and cross-version and for the mutual interest and harmony, the appellants in both the cases have effected a compromise and copy of the same is produced in the Court today. Same is taken on record. Registry is directed to tag the same at the appropriate place. Learned counsels further submit that the appellants are not involved in any other case and prayer is made that in view of the compromise effected between the parties, the appellants may be released on probation of good conduct.

7. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the appellants and submits that the appellants have been convicted by the learned trial Court based on correct appreciation of the facts and the law.

8. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that FIR and DDR were registered in the year 2016 and the appellants have been suffering the agony of trial since the last about 09 years.

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9. Section 3 and 4 of the Probation of Offenders Act, 1958 (hereinafter to be referred to as 'the Act') empowers the Courts to release the convicts if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C also allows the Courts to release convicts on probation for good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in ***Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722*** speaking through Justice Bela M. Trivedi, has held as under:-

“6. ...having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in ***Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763*** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

Further still, a two Judge Bench of the Hon'ble Supreme Court in ***Lakahnlal @ Lakahn Singh vs. State of Madhya Pradesh (2021) 6 SCC 100*** has opined as follows:

“15. We find that the attention of the Court was not drawn to sub Section (10) of Section 360 which provides that Section 360 will not affect the provisions of 1958 Act or other similar laws for the time being in force for the treatment, training or rehabilitation of youthful offenders. Still further,

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Section 4 of the 1958 Act has a non obstante clause, giving overriding effect over any other provisions of law.

16. The conjoint reading of the provisions of both the statutes, we find that the provisions of Section 360 of the Code are in addition to the provisions of the 1958 Act or the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders”

10. 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 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.

11. In view of the facts and circumstances of the case, the instant appeals are disposed of, in the following terms:-

1. The judgments of conviction dated 12.10.2018 passed by the learned Additional Sessions Judge, Bhiwani, are upheld.

2. The orders of sentence dated 16.10.2018 passed by the learned Additional Sessions Judge, Bhiwani are modified to the extent of granting the concession of probation to the appellants for good conduct.

3. The appellants in both the appeals shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each with a surety for the same amount, after furnishing an undertaking to keep the peace and good behaviour for a period

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of one year to the satisfaction of the concerned trial Court, within four weeks.

4. The appellants shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the appellants fail to comply with the said directions or commit breach of the undertaking rendered by them, they shall be called upon to undergo the sentence imposed upon them by the learned trial Court.

12. Needless to say in view of the Section 12 of Probation of Offenders Act, judgment(s) of conviction dated 12.10.2018 passed by learned Additional Sessions Judge, Bhiwani shall not be a hurdle to any of the appellants, in any way to get retiral benefits and other service benefits to which they are entitled to.

13. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

06.03.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No**Yes/No*