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

**CRR-482-2013 (O&M)  
Date of Decision: 27.03.2025**

**DHARAM SINGH AND OTHERS****...PETITIONERS****Versus****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. D.D. Sharma, Advocate  
for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

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**Harpreet Singh Brar, J. (Oral)**

1. This revision petition has been filed against the judgment dated 17.01.2013 passed by learned Additional Sessions Judge, Panchkula vide which judgment of conviction and order on quantum of sentence dated 09.02.2012 passed by learned Judicial Magistrate Ist Class, Panchkula have been upheld, whereby the petitioners have been convicted and sentenced as under:

<b>Offence under Sections</b>	<b>Sentence</b>	<b>Fine</b>	<b>Sentence in default of payment of fine</b>
323 of Indian Penal Code	Rigorous imprisonment for three months	-	-
325 of Indian Penal Code	Rigorous imprisonment for one year	Rs. 1,000/- each	Rigorous imprisonment for one month

Both sentences were ordered to run concurrently.

2. The brief facts of the prosecution story are that on 27.09.2008 Rai Singh son of Gurdas resident of village Baloti, moved a complaint before the Incharge, police post Ramgarh, to the effect that on that day he and his brother-Lal Singh were alighting from their vehicle Bolero bearing No.HR-68-3191. As per the complainant, at that time Dharam Singh, Sandeep Singh,

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Bhupinder Singh, (appellants herein), Gulab Singh and Sanju who all were hiding in the house of aforesaid Dharam Singh caught hold of them and put chilli in their eyes. Also, in the attack his brother had suffered fracture in his arm. He had further disclosed that they had rescued themselves by running away from the spot and that the accused had also damaged the windowpanes of their vehicle. On the basis of the above complaint, investigation was started and after completion of investigation challan under sections 323/325/34 of Indian Penal Code was presented before the learned Trial Court.

3. After assessing the material available on record, the learned trial Court convicted and sentenced the petitioners vide judgment of conviction and order of sentence dated 09.02.2012. Aggrieved by the same, the petitioners preferred an appeal before the learned lower Appellate Court, which was dismissed vide judgment dated 17.01.2013.

4. Learned counsel for the petitioners submits that learned Courts below have gravely erred in convicting the petitioners under Sections 323/325/34 of Indian Penal Code as there are contradictions and discrepancies in the testimonies of material witnesses. Learned counsel further submits that the petitioners are not involved in any other case and prayer is made that petitioners may be released on probation of good conduct.

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioners and submits that the petitioners have been convicted by the learned trial Court based on correct appreciation of the facts and law. Moreover, the conviction has been upheld by the learned lower Appellate Court, as such interference by this Court is not warranted.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that FIR was registered



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on 22.10.2008 and the petitioners have been suffering the agony of trial since the last more than 16 years and the petitioners are 74, 37 and 35 years of age respectively.

7. Sections 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 petitioners, 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 petitioners, it is directed that the petitioners 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, 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”

8. 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.

9. In view of the facts and circumstances of the case, the instant petition is disposed of, in the following terms:-

1. The judgment of conviction dated 17.01.2013 passed by the learned Additional Sessions Judge, Panchkula, is upheld.
2. The order of sentence dated 09.02.2012 passed by the learned Judicial Magistrate Ist Class, Panchkula is modified to the extent of granting the concession of probation to the petitioners for good conduct.
3. The petitioners 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

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the peace and good behaviour for a period of one year to the satisfaction of the concerned trial Court, within four weeks.

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

10. Needless to say in view of the Section 12 of Probation of Offenders Act, judgment dated 17.01.2013 passed by learned Additional Sessions Judge, Panchkula and judgment of conviction and order on quantum of sentence dated 09.02.2012 passed by learned Judicial Magistrate Ist Class, Panchkula, shall not be a hurdle to petitioners, in any way, to get retiral benefits and other service benefits to which they are entitled to.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**27.03.2025***Ajay Goswami**Whether speaking/reasoned*  
*Whether reportable**Yes/No**Yes/No*