



CRR-1466-2023 (O&M) and one more case

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

1.

**CRR-1466-2023 (O&M)
Date of Decision: 21.01.2025**

TEJINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

2.

**CRR-1521-2023 (O&M)
Date of Decision: 21.01.2025**

TEJINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashok Giri, Advocate
for the peitioner(s).

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Both these revision petitions are decided by this common order as one judgment passed by learned lower Appellate Court i.e. learned Sessions Judge, Jalandhar has been impugned in these petitions.

2. The present revision petitions have been preferred against the judgment dated 25.01.2023 passed by learned Sessions Judge, Jalandhar whereby the judgment of conviction dated 22.02.2022 under Sections 323 and 325 read with Section 34 of Indian Penal Code, passed by learned Judicial Magistrate Ist Class, Jalandhar in FIR No. 79 dated 14.09.2013 registered at Police Station Lambra, Jalandhar, was upheld and order of sentence dated 22.02.2022 was modified to grant the concession of probation to the accused persons.

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3. The brief facts of the prosecution case are that on 14.09.2013, HC Premjit Singh alongwith other police personnel were present at Adda Kalyanpur in connection with checking of suspected persons, where Tejinder Singh (petitioner herein) alongwith Jasvir Singh came and produced the MLR alongwith X-ray report of Tejinder Singh. Tejinder Singh got recorded his statement before HC Premjit Singh to the effect that he is an agriculturist by profession. On 28.08.2013, he was raising construction of his house by hiring mason and had opened a window towards government road. Surinder Kaur, Satwant Singh and Surinder Singh stopped him from opening that window towards the government road. Upon this, he told them that they had also opened the windows towards government road, then they started quarreling with him. Satwant Singh raised *lalkara* to teach him a lesson for opening the window towards them and gave three punch blows, which hit on the eyebrow of his right eye, right ear and nose. On raising an alarm, his younger brother Jasvir Singh and sister Jaswinder Kaur came to his rescue and Surinder Kumar tore the clothes of his sister and also pulled her hair. Many people collected at the spot and the accused ran away from the spot. Hence, the present FIR.

4. On assessing all the material available on the record, the learned trial Court convicted the respondents vide judgment dated 22.02.2022 under Sections 323 and 325 read with Section 34 of Indian Penal Code. Aggrieved by the same, the respondents-accused preferred an appeal before the learned lower Appellate Court which the judgment of conviction was upheld but the order of sentence dated 22.02.2022 was modified to extend the concession of probation to the respondents-accused vide judgment dated 25.01.2023.

5. Learned counsel for the petitioner(s) contend that the learned Court below fell into error by modifying the sentence of the respondents to probation



for a period of two years as the same is based on untenable grounds. The charges against the respondents-accused stand duly proven by all the prosecution witnesses and as such, the learned Court below ought not to have granted the benefit of probation to them. Further, the learned Court below had not awarded any compensation to the petitioner and prays that some amount of compensation may be awarded to the petitioner, who has sustained injuries at the hands of respondents-accused.

6. Learned counsel for the respondent-accused supports the impugned judgments and submits that the respondents-accused were correctly granted the benefit of probation for their good conduct on furnishing probation bonds which serves the ends of justice.

7. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the respondents-accused have maintained good conduct and do not have criminal antecedents. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society. A Co-ordinate bench of this Court in *Nasri v. State of Haryana 2023(2) Law Herald 2203*, speaking through Justice Arun Monga, made the following observations:

“11.2. Objectives and principles of criminal law as envisioned in the provision ibid, apart from deterrence against committing crime against society, are inter-alia focused on the reformation of offenders, which inheres the concept of probation. Modern criminal justice system often aims to balance punishment with rehabilitation, emphasizing the potential for positive change in individuals who have committed crime. The goal of criminal law extends beyond mere punishment. While punishment serves to deter and hold individuals accountable for their actions, there is a growing recognition of the importance of addressing the underlying



factors that contribute to criminal behaviour. This perspective emphasizes the potentials of offenders to reform and reintegrate into society as law-abiding citizens. Probation is one of the mechanisms used to achieve this reformation objective. In certain cases, certain offenders may be asked to remain under community supervision rather than being incarcerated. During such probation period, the offender can be put to follow certain conditions, such as regular reporting to a probation officer, participating in counselling or treatment programs and maintaining employment or education. The aim is to provide support, guidance and opportunities for the offender and to address the root causes of their criminal behaviour and develop positive life skills. Close monitoring and guidance provided during probation can help the offender make positive changes in their life and reduce the likelihood of re offending.”

8. The present petition is decided in *limine*, without issuing notice to the private respondents in view of the settled law to save the judicial time of the Court and to save the litigation cost of private respondents.

9. 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 Code of Criminal Procedure, if he is not convicted for an offence punishable with death penalty or imprisonment for life and additionally he is not a previous convict and further 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 of 1958’) 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. Thus, keeping in view the age and antecedents of the private respondents and the fact that they are not previous convicts, the learned lower Appellate Court has rightly extended the benefit of probation to them.

10. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a



healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

11. This Court in CRR-1727-2016 titled as *Raman Kumari Vs. State of Haryana and Others* decided on 01.03.2018 has held that in case the complainant and injured witnesses have suffered injuries at the hands of accused, in such a scenario, the provisions of Section 5 of the Probation of Offenders Act would come into play.

12. In light of the above, this Court finds no infirmity or perversity in the judgment of the learned Appellate Court granting the benefit of probation to the private respondents. However, the plight of the petitioner-complainant and the loss suffered by him cannot be overlooked. Significantly, the complainant endured a had suffered injuries substantial enough to attract offences punishable under Sections 323 and 325 of the IPC. The complainant 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 Probation of Offenders Act, 1958, 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.

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(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.

To balance the rights of the petitioner-complainant with the benefit of probation extended to the private respondents, this Court deems it expedient to direct the respondents to pay compensation of Rs. 10,000/- each (totalling to Rs. 30,000/-) to the petitioner. While compensation can never fully redress the suffering endured by the petitioner-complainant, it is a step toward acknowledging the hardship faced by him, with an aim to meaningfully contribute towards his rehabilitation.

13. In view of the above, the instant revision petition stands dismissed. However, the impugned judgment of learned Lower Appellate Court dated 25.01.2023 passed by learned Sessions Judge, Jalandhar is modified to the extent that private respondents in both cases are directed to pay Rs. 10,000/- each (Total Rs. 30,000/-) to the petitioner within a period of one month from the date of receipt of certified copy of this order. Learned Chief Judicial Magistrate, Jalandhar is directed to issue notice to the private respondents and call upon them to comply with the directions issued by this Court with regard to payment of compensation to the petitioner within a period of 08 weeks from the date of receipt of certified copy of this order. Failure of private respondents to pay the amount of compensation to the petitioner would entail appropriate consequences and the Chief Judicial Magistrate concerned would be at liberty to take appropriate steps to recover the amount of compensation from the private respondents in accordance with law.

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14 Registry is directed to send a copy of this order to concerned Chief Judicial Magistrate forthwith.

15. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

21.01.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>