



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

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CRR No.1673 of 2016 (O&M)

Date of decision: 06.02.2025

Basruddin

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aazam Khan, Advocate
for Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present revision petition is preferred against the judgment dated 03.02.2016 passed by learned Additional Sessions Judge(1), Palwal whereby the judgment of conviction dated 05.06.2014 passed by learned Sub-Divisional Judicial Magistrate, Hathin in FIR No.155 dated 25.04.2010, registered under Sections 452, 148, 323, 324, 506, 149 IPC at Police Station Hathin was upheld and order of sentence dated 07.06.2014 was modified to grant the concession of probation to the accused persons-private respondents.

2. As per prosecution story, Basruddin, a resident of village Kot, filed an application with the police on 24.04.2010, alleging that his wife Rehana was filling water from a tap outside his house. His co-resident, Harun, came to ask to close the tap, but his wife refused, causing an oral altercation. Harun returned, promising to see them later.

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His wife and brother Bhudar entered the house, and Ruzdar, Harun, Tayyub, Rasid, and Umar Mohd. armed with lathi and pharsa, trespassed into their house. Ruzdar gave beatings on the left side of his head, Harun gave beatings on his left shoulder, and Tayyub gave beatings on his left foot. His brother Bhudar tried to rescue him, but Umar and Rasid threw lathi blows at his shoulder and left arm. On making shouting, Khalil and Yunus rescued them. Thereafter, the accused left the spot with their respective weapons and the injured were taken to Hathin Hospital for treatment.

On the basis of the above said allegations, the FIR (supra) was registered and the investigation was started. Accused persons were arrested. After completion of investigations and other necessary formalities, challan was prepared and presented in the Court.

3. On assessing all the material available on the record, the learned trial Court vide judgment of conviction dated 05.06.2014 and order of sentence dated 07.06.2014, convicted the private respondents-accused for offence under Sections 323, 324, 452 IPC and awarded them substantive sentence of rigorous imprisonment for a period of 03 years and were further directed to pay fine of Rs.1000/- each. Aggrieved by the same, the private respondents-accused preferred an appeal before the learned Lower Appellate Court wherein the judgment of conviction was upheld but the order of sentence was modified to extend the concession of probation to the private respondents-accused vide judgment dated 03.02.2016.



4. Learned counsel for the petitioner submits that the judgment dated 03.02.2016, wherein the learned Additional Sessions Judge, Palwal, upheld the conviction of the private respondents-accused but modified their sentence to probation for 02 years, is erroneous and unjustified. The learned trial Court had rightly convicted the accused under Sections 323, 324, and 452 IPC based on credible evidence, as the respondents' actions involved trespassing and inflicting bodily harm on the complainant and his family. Learned counsel for the petitioner further submits that the learned Lower Appellate Court's fails to consider the severity of the offences, the physical injuries sustained by the victims, and the need for a deterrent sentence. Therefore, the modification to probation is not supported by law or facts, and the petitioner prays for the original sentence to be restored.

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

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that private respondents-accused have maintained good conduct and does 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 civilized society like ours, it would be truly unfortunate if an offender is not given the opportunity to



realize and fully fathom his mistake and channel that awareness into making fruitful contributions in society.

7. Section 3 and 4 of the Probation of Offenders Act empower the Courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the Courts to release the offenders on probation of 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.”



8. Learned Additional Sessions Judge(1), Palwal, has invoked the provisions of Section 357(3) of Cr.P.C. and awarded Rs.12,000/- each, as compensation to the petitioner.

9. In view of the facts and circumstances of the case, this Court finds no perversity or illegality in findings recorded by the learned lower Appellate Court which warrants interference. Hence, the instant revision petition stands dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

06.02.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No