

(2025-1)216 PLR 435 (SN), RAJINDER SINGH v. STATE OF HARYANA

Punjab and Haryana High Court

Before : Justice Harpreet Singh Brar.

RAJINDER SINGH – Petitioner

Versus

STATE OF HARYANA – Respondent.

CRR-107 of 2011 (O&M)

Probation of Offenders Act, 1958 (20 of 1958), Section 3, 4, 5 - Probation - Obligatory to grant probation to eligible first-time offenders, except in cases involving death penalty or life imprisonment .

To balance the rights of the complainant with the benefit of probation extended to the petitioner, petitioner-accused to pay compensation of Rs. 25,000/- to the complainant. AIR 1979 SC 964, followed. [Para 7-9]

Criminal Procedure Code, 1973 (2 of 1974), Sections 360, 361 – Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), Section 401, 402 – Indian Penal Code, 1860 (45 of 1860), Section 326.

Cases referred:

1. (2022) 6 SCC 722, *Som Dutt v. State of Himachal Pradesh*
2. (2021) 2 SCC 763, *Lakhvir Singh v. State of Punjab*
3. AIR 1979 SC (964), *Bishnu Deo Shah v. State of West Bengal*

Mr. Aashish Pannu, Advocate for the petitioner. Mr. Rupinder Singh Jhand, Addl. AG Haryana.

Harpreet Singh Brar, J. (ORAL) - (19.02.2025) - The present revision petition has been preferred against the judgment dated 15.12.2010 passed by learned Additional Sessions Judge/FTC, Sonepat whereby the judgment of conviction and order on quantum of sentence dated 22.09.2009/23.09.2009 passed by learned Sub Divisional Judicial Magistrate, Gohana convicting the petitioner under Section 326 of Indian Penal Code and sentencing him to undergo rigorous imprisonment for one year and imposing a fine of Rs. 1,000/- were upheld and appeal filed against the said judgment of conviction and order of sentence was dismissed.

2. The facts of the case, in brief are as under:

"Naveen Kumar son of Bir Singh, r/o Mahmoodpur, complainant made a statement before the police on 18.3.2004 to the effect that on 02.03.2004 he alongwith other boys including Rajinder son of Balwan were playing volleyball in Government High School and an altercation took place with Rajinder. Thereupon he threatened to teach a lesson to the complainant on finding an appropriate opportunity. On 17.03.2004 complainant was going towards his Gher for tethering cattle. When he reached near the house of Rajinder, he came out from his house carrying an axe and gave its blow on the head of the complainant but the complainant defended the attack on his right hand. The accused Rajinder gave second axe blow on the left hand of the complainant. Meanwhile Jagbir and Gunveer who were crossing from the street, came there and rescued the complainant from the clutches of the accused otherwise, the accused would have killed the complainant. After it, the brother of the complainant, namely Ravinder took him to the hospital for treatment."

3. On assessing all the material available on the record, the learned trial Court convicted the petitioner vide judgment dated 22.09.2009 under Section 326 of Indian Penal Code and vide order on quantum sentence dated 23.09.2009 sentenced him to undergo rigorous imprisonment for one year and fine of Rs. 1,000/- was also imposed upon him. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court and learned Additional Sessions Judge, Sonipat vide judgment dated 15.12.2010 dismissed the appeal filed by the petitioner and upheld the judgment of conviction and order of sentence passed by the trial Court.

4. Learned counsel for the petitioner contends that the petitioner has suffered the agony of trial for almost 20 years as the FIR(supra) was registered on 18.03.2004. Therefore, learned counsel further submits that he is not assailing the impugned judgment of conviction dated 15.12.2010 passed by learned Additional Sessions Judge, Sonipat on merits and restricts his prayer to modification of the order on quantum of sentence dated 23.09.2009 to that of the release of the petitioner on probation of good conduct and urged the Court to take a lenient view of the matter as the petitioner has reformed and intend to live his life as a law-abiding citizen.

5. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

6. I have heard learned counsel for the parties and perused the paper book with their able assistance.

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 (401 and 402 of BNSS) 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 v. 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 v. 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."

The Hon'ble Supreme Court in *Bishnu Deo Shah v. State of West Bengal* 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 antecedents of the petitioner and the fact that he is not a previous convict, it is obligatory upon the Court to extend the benefit of Probation of Offenders Act to the convict.

8. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Sonipat is upheld. However, having regard to the fact that the petitioner has no criminal antecedents, this court is inclined to give him the benefit of probation for good conduct. Accordingly, he is ordered to be released on probation on furnishing a personal bond of Rs.10,000/- with a surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of one year, to the satisfaction of the concerned trial court within a period of four weeks. The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commit breach of the undertaking given by him, he shall be liable to pay the fine as imposed upon him by learned Sub Divisional Judicial Magistrate, Gohana.

9. However, the plight of the complainant and the loss suffered by him cannot be overlooked. Significantly, the complainant had suffered injuries substantial enough to attract offences punishable under Section 326 of Indian Penal Code. 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.

(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 complainant with the benefit of probation extended to the petitioner, this Court deems it expedient to direct the petitioner-accused to pay compensation of Rs. 25,000/- to the complainant within four weeks. While compensation can never fully redress the suffering endured by the complainant, it is a step toward acknowledging the hardship faced by him, with an aim to meaningfully contribute towards her/his rehabilitation.

10. With the aforesaid directions, the instant petition stands disposed of.

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