
(1985) 04 P&H CK 0044
In the Punjab And Haryana At Chandigarh

Rattan Singh and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 20-04-1985

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 376

Penal Code, 1860 (IPC) — Section 323, 324, 34

Probation of Offenders Act, 1958 — Section 11, 3, 4

Citation : (1986) CriLJ 1436 : (1985) 2 ILR (P&H) 419 : (1985) 82 PLR 748

Hon'ble Judges : M.M. Punchhi, J

Bench : Single Bench

Judgement

M.M. Punchhi, J.—This is a petition for appeal in which the accused-appellants were convicted for offences under Sections 324/34 and 323/34, IPC by Shri P.C. Nariala, Additional Sessions Judge, Ambala. He thereafter heard them on the question of sentence but in lieu thereof ordered their release on probation, the bonded period being two years. In this petition, they have sought to challenge not only the conviction but also the order of their release on probation.

2. At the outset, it need be observed that no appeal would lie against such a conviction which has resulted in no sentence to the accused-appellants. Section 376, Cr. P.C. is a clear pointer in that regard. When the Legislature in its wisdom has not permitted an appeal against the order of a Court of Session in which the sentence passed only was of imprisonment for a term not exceeding three months, or a fine not exceeding Rs. 200/- or of both such imprisonment and fine, it cannot be conceived that an appeal was permissible when no sentence at all had been passed. In my view, when a Court of Session records an order of conviction after trying the case and releases the offender on probation, its order of conviction is not appealable for there is no sentence either of imprisonment or fine, or both, beyond the prescribed doses u/s 376, Cr. P.C. An appeal, however, is maintainable against the order of probation u/s 11(2) of the Probation of Offenders Act, 1958 which is in the following terms:

Notwithstanding anything contained in the Code, where an order u/s 3 or Section 4 is made by any Court trying the offender (other than a High Court), an appeal shall lie to the Court to which appeals ordinarily lie from the sentences of the former Court.

Here, a fiction had been introduced. Appeals against sentences beyond the prescribed doses ordinarily lie to this Court against an original order of the Court of Session. Even though the appeal of the present appellants is competent, but nothing has been addressed to me as to how the appellants are aggrieved against the said order. The amount of bond is just Rs. 5,000/- and is covered by one surety. The period of two years specified in the bond cannot by any means be termed as excessive in the circumstances. This order would not require any interference by this Court.

3. For the foregoing reasons this appeal is dismissed.