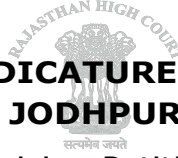




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Revision Petition No. 640/2007

Varjanga Ram S/o Bholaji R/o Village Dhanta, Tehsil Sanchore,
District Jalore.

-----Petitioner

Versus

State of Raj. and Ors.

-----Respondents

For Petitioner(s)	:	Mr. Vijay Purohit
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, PP

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment

16/07/2025

1. Instant revision petition has been filed by the petitioner/complainant against the order dated 21.03.2007, passed by learned Additional Sessions Judge, Bhinmal, District Jalore in Cr. Appeal No.12/2007 whereby the learned appellate court partly allowed the appeal of the accused-respondents No.2 to 10 and while affirming the judgment of the learned Additional Chief Judicial Magistrate, Bhinmal dated 06.02.2007 passed in Cr. Original Case No.107/1995 to the extent of conviction for offences under Sections 148, 452, 323/149, 324/149 & 325/149 IPC, set aside the sentence and instead gave benefit of probation to the accused-respondent Nos.2 to 10 under Section 4 of Probation of Offenders Act.

2. Briefly stated, the prosecution case as set up is that on 11.04.1994, complainant Roopa submitted a written report at Police Station Sanchore to the effect that at about 08:30 AM he



went to petitioner's flour mill for grinding flour. When he reached the mill, the respondents No.2 to 10 arrived there and assaulted the petitioner and one another person with an intention to kill them due to which, they got injured. On the said information, Police registered a case against the accused-respondents No.2 to 10 and started investigation.

3. On completion of investigation, the police filed challan against the accused-respondents No.2 to 10. Thereafter, the trial court framed charges for offences under Sections 148, 452, 323/149, 324/149 & 325/149 IPC. The accused respondents No.2 to 10 pleaded not guilty and claimed trial.

4. During the course of trial, the prosecution examined as many as 17 witnesses in support of its case and exhibited certain documents. Thereafter, statements of the accused respondents No.2 to 10 were recorded under section 313 Cr.P.C.

5. Upon conclusion of the trial, the learned trial court vide impugned judgment dated 06.02.2007 convicted and sentenced the accused-respondents No.2 to 10 for aforesaid offences.

6. Being aggrieved by their conviction and sentence, the accused-respondents No.2 to 10 preferred an appeal before the learned appellate court, which came to be partly allowed vide judgment dated 21.03.2007. The learned appellate court while maintaining the conviction of the accused-respondents No.2 to 10 for the aforesaid offences, set aside the sentence as awarded by the trial court and instead gave benefit of probation under Section 4 of the Probation of Offenders Act to the accused-respondents No.2 to 10. Hence, this revision petition on behalf of the complainant/injured against the judgment of the appellate court.



7. Learned counsel for the petitioner argued that learned appellate court has committed grave error in giving benefit of probation to the accused-respondents No.2 to 10 despite the fact that the prosecution has proved its case beyond all reasonable doubts. Counsel submits that there is ample evidence available on record against the accused-respondents No.2 to 10 for commission of offence. Yet, the appellate court did not consider these aspects of the matter and despite conviction and sentence awarded by the trial court for aforesaid offences to the accused-respondents No.2 to 10, the appellate court did not award any sentence and instead gave benefit of probation under Section 4 of Probation of Offenders Act, which is perverse and illegal. Thus, it is prayed that the impugned appellate judgment may be quashed and set aside to the extent of giving benefit of probation to the accused-respondents No.2 to 10 and the sentence awarded by the trial court may be upheld.

8. I have considered the submissions of the learned counsel for the petitioner and perused the judgments of the appellate court as well as trial court and also gone through the entire record.

9. The learned trial court, after meticulous appreciation of evidence and considering each and every aspect of the matter, has convicted and sentenced the accused-respondents No.2 to 10 for offences under Sections 148, 452, 323/149, 324/149 & 325/149 IPC. The accused-respondents No.2 to 10 filed an appeal against their conviction and sentence before the appellate court. The learned appellate court while taking into consideration the facts that this was the first offence of the accused-respondents No.2 to 10 and they have been facing trial since 1994 and they also



remained in custody for some time and they are not habitual offenders, has given benefit of probation under Section 4 of the Probation of Offenders Act to the accused-respondents while maintaining the conviction for the aforesaid offences.

10. On perusal of the impugned judgment of the appellate court, it appears that the learned appellate court has considered each and every aspect of the matter while passing the impugned judgment and has rightly extended the benefit of Probation under Section 4 of the Act. Thus, this Court does not find any illegality and perversity in the impugned appellate judgment and the same does not require any interference from this Court.

11. In the light of aforesaid discussion, the petitioner has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the impugned appellant judgment under challenge.

12. Accordingly, the revision petition is hereby dismissed.

13. Record of the learned courts below be sent back forthwith.

(MANOJ KUMAR GARG),J