

**IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN**

BENCH AT JAIPUR

S.B. Criminal Revision No. 859/2013.

1. Manoj Kumar Sharma S/o Shri Ratan Kumar Choudhary,
2. Ratan Kumar Choudhary S/o Late Shri Ram Choudhary
3. Beena Sharma w/o Ratan Kumar Choudhary,

All by caste Brahman, R/o H.No. 24, Jain Colony, Badh Karol, Jagatpua Police Station, Malviya Nagar, Jaipur.

Versus

The State of Rajasthan Through P.P.

For Petitioner(s) : Shri Manish Choudhary

For State : Ms. Meenakshi Pareek, P.P.

HON'BLE MRS. JUSTICE SABINA

Judgment / Order

31/1/2018

Petitioners had faced trial qua offence punishable under Section 498A, 406 and 323 Indian Penal Code, 1860. Trial Court vide order dated 18.7.2008 ordered the acquittal of the petitioners. Aggrieved against the said order, State preferred an appeal and the same was allowed by the Appellate Court vide order dated 14.5.2013.

Petitioners were convicted qua offence under Section 498A, 406, 323 IPC. Vide order of the even date, petitioners were granted benefit of probation under Section 4 of the Probation of Offenders Act, 1958 (hereinafter referred to as the 'Act'). Hence, the present petition by the petitioners.

Learned counsel for the petitioners has submitted that, although, petitioners have been ordered to be

released on probation, but the benefit of section 12 of the Act has not been extended to the petitioners.

Section 12 of the Act reads as under:- "Removal of disqualification attaching to conviction.- Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release under section 4 is subsequently sentenced for the original offence."

Thus, as per the above provision, when an accused is granted probation under Section 3 or Section 4 of the Act, he shall not suffer any disqualification, if any, attaching to a conviction of an offence under such law. Section 12 is clear and unambiguous. Appellate Court was not required to specifically state in the order that the petitioners would be entitled to benefit of Section 12 of the Act. The provision of Section 12 of the Act is liable to be extended to an accused, who has been ordered to be released on probation by giving him benefit of Section 3 or Section 4 of the Act. In the present case, petitioners have been granted benefit of probation under Section 4 of the Act. Hence, the apprehension of the petitioners that they would not be entitled to benefit of Section 12 of the Act is misfounded as the petitioners are entitled for benefit of Section 12 of the Act.

Petition stands disposed of accordingly.

(SABINA)J.

Mrg./59