

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1425 of 2015 (O&M).
Decided on:-July 29, 2015.

Rohtash.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Ashok Arora, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

The present revision petition has been filed by petitioner Rohtash who was nominated as an accused in case FIR No.213 dated 18.9.2006 under Section 386 IPC, registered at Police Station Uklana, District Hisar.

Learned trial Court vide judgment dated 18.2.2012 had found the petitioner guilty for the commission of offence under Section 386 IPC and vide separate order dated 23.2.2012 sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- for the commission of aforesaid offence. In default of payment of fine, the petitioner was further sentenced to undergo simple imprisonment for a

period of three months. However, the fine has been paid by the petitioner.

Against the judgment of conviction dated 18.2.2012 passed by the learned Judicial Magistrate 1st Class, Hisar, the petitioner preferred an appeal before the learned Additional Sessions Judge, Hisar. Vide judgment dated 12.2.2015, the learned Additional Sessions Judge did not find any merit and dismissed the appeal. The petitioner was ordered to be taken in custody to suffer the awarded sentence.

It is in the aforesaid circumstances that the petitioner has filed the present revision petition challenging his conviction and sentence awarded by the learned court below.

Briefly stated the case of the prosecution is that on 18.9.2006 at 6.30 p.m. ASI Sadhu Ram along with HC Kehta Singh and EHC Bhoop Singh was present at Bus Stand, Uklana in connection with patrolling. Complainant Om Partap presented an application to the effect that he is retired from the post of Government Medical Officer. In the evening of 17.9.2006, a letter wrapped in a pebble was found lying in the courtyard of his house wherein a demand of Rs.2 lacs was made from him as well as from his wife. The letter contained that ransom be given on Sunday between 12.00 noon to 1.00 p.m. and in case the money is not given, nobody will be saved and he will put fire. On the morning of 18.9.2006, second and third letters were also found lying in the courtyard wherein it was directed that ransom be given to his person near Gulshan Tent House failing which a threat was also given to kill him with bomb blast. With this information, the

complainant prayed for initiation of legal action against the person who demanded ransom from him. The FIR for the commission of offence under Section 386 IPC was registered and during investigation, the accused was arrested.

On the basis of investigation, the Challan was presented and copy as required under Section 207 Cr.P.C. was supplied to the accused. A prima-facie case under Section 386 IPC was made out against the accused and accordingly, charge was framed against him vide order dated 7.12.2006 by the learned Judicial Magistrate 1st Class, Hisar to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution has examined four witnesses i.e. PW1 Dr. Om Partap, who is complainant in the present case. He proved letters Ex.P1 to Ex.P3 vide which the ransom was demanded from him. Ex.P4 is the complaint moved by him to the police and on the said complaint, the police had started investigation. All the three letters were taken into possession by the police vide recovery memo Ex.P5. Ex.P6 is the letter which was given to the police by the wife of the complainant when the police visited the house of the complainant. In this letter, the complainant was directed to give money at Vishvakarma Dharamshala. This letter was taken into possession by the police vide recovery memo Ex.P7. On the asking of the police, the complainant prepared a white colour bag containing papers in the shape of currency notes of Rs.500/- and reached at Vishvakarma Dharamshala. After some time, a person who was muffled face

came to him for taking money bag. In the meanwhile, the police apprehended that person and had enquired about the incident. On enquiry, he disclosed his name as Rohtash i.e. the present accused, resident of Indira Colony, Uklana. Thereafter, the bag containing papers was taken into possession vide recovery memo Ex.P8 which was attested by the witness.

Similarly, PW2 Veena who is wife of complainant Om Partap has deposed that on 17.9.2006, one slip was found lying in the courtyard of her house. She further deposed that except this, she did not know anything about the present case. In this manner, this witness was declared hostile as she resiled from her previous statement Ex.P9 recorded by the police.

PW3 SI Sadhu Ram is the investigating officer and he has proved the steps taken by him during the investigation of the case.

PW4 HC Kehta Singh is the witness of recovery who had accompanied the investigating officer as well as the complainant during investigation of the present case.

Having adduced the prosecution evidence, the case of the prosecution was put to the accused and he was examined under Section 313 Cr.P.C. He denied the prosecution allegations and pleaded to be innocent.

Section 386 IPC reads as under:

- (i) That the accused put any person in fear of death or of grievous hurt to that person or to any other person; and,**
- (ii) That the accused did so in committing extortion.**

In view of the above provisions of Section 386 IPC, the

prosecution was required to prove that accused Rohtash put complainant Om Partap and his wife Veena in fear of death or of grievous hurt and he did so in committing extortion.

In the present case, complainant Om Partap had received three letters regarding demand of ransom and in all the three letters, a threatening was given whereby the accused had put Om Partap and his wife in fear of death or grievous hurt in order to commit the aforesaid offence of extortion whereby Rs.2 lacs were demanded by the accused.

On the basis of aforesaid material, the trial Court convicted and sentenced the accused vide judgment of conviction and order of sentence dated 18.2.2012 and 23.2.2012 respectively. The accused had filed an appeal against the said verdict of the trial Court but the same was also dismissed by the appellate Court vide judgment dated 12.2.2015.

I have heard learned counsel for the petitioner-accused as well as learned counsel for the State.

Having been confronted with the quality of evidence available on the record which is cogent and convincing and leads to no other conclusion but the conviction of the petitioner, learned counsel for the petitioner submits that he will not be able to successfully challenge the conviction of the petitioner.

This Court on 20.5.2015 had issued notice to the respondent qua quantum of sentence only.

Learned counsel for the petitioner prays that the petitioner has

already undergone sentence for sentence for about 8 months and 10 days as against the total awarded sentence of one year. He argues that the sentence of the petitioner be suitably reduced as this criminal trial is hanging on his head like Damocles' sword for the last about nine years and it should be a sufficient mitigating circumstance to treat him leniently. Counsel for the petitioner further submits that the occurrence pertains to the year 2006 and since then a period of more than 8 years has elapsed. The petitioner has suffered the ordeal for a long period. In support of his contention, learned counsel for the petitioner has placed reliance upon a judgment of this Court in ***Manjot Singh Versus State of Punjab 2013(1) RCR (Criminal) 64*** to contend that in the similar circumstances, in a case under Section 384 IPC, this Court had reduced the sentence of the accused from two years to one year by considering the fact that the incident was four years old. He further submits that there is no other case pending against the petitioner.

I have considered the arguments advanced by the learned counsel for the petitioner as noticed above. Accordingly, I feel that justice would be met to the petitioner if the sentence awarded to him is reduced to the period already undergone. I order accordingly.

For the sake of repetition, the sentence of one year awarded by the trial Court and affirmed by the appellate Court is reduced to the period already undergone by the petitioner-accused. However, the petitioner is directed to pay Rs.10,000/- as compensation to the complainant within one month. In default, the amount will be recoverable as land revenue.

With the aforesaid modification in the order of sentence, the impugned judgment of conviction dated 18.2.2012 passed by the trial Court and affirmed by the appellate Court, is upheld.

The present revision petition stands disposed of with a direction that the petitioner be released immediately, if not required in any other case.

(HARI PAL VERMA)
JUDGE

July 29, 2015
'Yag Dutt'