

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

Crl. Revision No.1839 of 2015 (O&M)
Date of decision: 27.8.2015

Vijay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. A.S. Kalra, Advocate for the petitioner.
Mr. Gaurav Dhir, DAG, Haryana.

Rajan Gupta, J. (oral)

Petitioner Vijay Kumar had been convicted by the Addl. Chief Judicial Magistrate, Kaithal, under sections 452 and 354 IPC. He was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- under section 452 IPC and rigorous imprisonment for one year and to pay a fine of Rs.500/- under section 354 IPC.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by Additional Sessions Judge, Kaithal, vide judgment dated 16.03.2015.

Feeling aggrieved against the judgments of both the courts below, the petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence

awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 25.11.2009, complainant Manjeet Kaur made statement to ASI Balbir Singh at Siwan Gate, Kaithal to the effect that about 1½ months ago, her mother-in-law Bachan Kaur was admitted in Shah Hospital, Kaithal due to illness and she had been attending her there. Accused Vijay Kumar (petitioner herein) told that his patient was also admitted in that very hospital and demanded her mobile number so that he could remain aware of condition of his patient. On humanitarian grounds, she gave her mobile number to him. After one week, her mother-in-law was discharged from the hospital. During that period, accused also came to know about her address. On the fateful day at about 10.00 P.M., all her family members after taking dinner, had gone to sleep. She alone slept in the kitchen. At about 3.00 A.M., accused entered in the kitchen and started outraging her modesty and hugged her. She raised noise, on which her husband Sandeep came there and apprehended the accused. On her statement, FIR was registered by the police. After completion of investigation, challan against the accused

was presented in the trial court.

Finding prima facie case under Sections 452/354/506 IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as five witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. However, he did not examine any witness in his defence.

On the basis of the evidence on record, the learned trial court held the petitioner guilty under sections 452 & 354 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Kaithal on 16.03.2015.

On a perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has,

however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor person and main bread winner of his family including his old parents and two children. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to seven months. However, fine imposed shall remain intact.

Except with the modification in the quantum of sentence and fine, as indicated hereinabove, the appeal stands dismissed.

(RAJAN GUPTA)
JUDGE

27.8.2015
'Rajpal'