

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.1648 of 2015 and
CRR No.184 of 2015

Date of decision:25.8.2015

Gunjit Kaur

.... Petitioner

Versus

State of Punjab & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON.
HON'BLE MRS. JUSTICE REKHA MITTAL.

Present: Mr. Pawan Kumar Gupta, Advocate for the appellant.

S.S. Saron, J.

The petitioner Gunjit Kaur has filed this revision petition against the judgment of conviction dated 15.1.2014 and the order of sentence dated 16.1.2014 passed by the learned Additional Sessions Judge, Ludhiana whereby respondent No.2 Gurdish Singh has been convicted for the offence punishable under Section 302 Indian Penal Code ('IPC' – for short) and sentenced to undergo imprisonment for life; besides, pay a fine of Rs.10,000/- and in default thereof, undergo rigorous imprisonment for a period of three months. Along with the revision petition, criminal misc. application No.1648 of 2015 has been filed seeking condonation of 263 days' delay in filing the revision petition.

A prayer made in the revision petition for modifying the sentence awarded to respondent No.2 – Gurdish Singh from life imprisonment to death sentence; besides, payment of compensation to the extent of Rs.50 lacs to the petitioner who is the daughter of the deceased Darshan Singh and to her brother.

We have given our thoughtful consideration to the matter. It may be noticed that in terms of the proviso to Section 372 of the Code of Criminal Procedure ('CrPC' – for short), an appeal is maintainable on behalf of a 'victim' against any order passed by the Court acquitting the accused or convicting him for a lesser offence or imposing inadequate compensation. There is no provision for filing an appeal against inadequate sentence. An appeal against inadequate sentence in fact would not be maintainable at the behest of a 'victim' in view of the proviso to Section 372 CrPC as has also been held by the Supreme Court in National Commission of Women v. State of Delhi and another, 2010 (4) RCR (Crl.) 758.

The revisional jurisdiction against an order of a subordinate Court can be exercised by the High Court as held in Sheetala Parsad v. Sri Kant, (2010) 2 SCC 190 where the trial Court has wrongly shut out evidence which the prosecution wished to produce; where admissible evidence has wrongly been brushed aside as inadmissible; where the trial Court has no jurisdiction to try the case and has still acquitted the accused; where the material evidence has been overlooked either by the trial Court or the appellate Court or the order is passed by considering irrelevant evidence and where acquittal is based on the compounding of the offence which is invalid under the law. These were held to be some

of the categories where revisional jurisdiction can be exercised by the High Court at the instance of a private complainant.

In Kaptan Singh v. State of MP (1997) 6 SCC 185, it was held that the revisional jurisdiction when invoked by a private complainant against an order of acquittal ought not to be exercised lightly and that it is to be exercised only in exceptional cases where the interests of the public justice require interference for the correction of manifest illegality or prevention of gross mis-carriage of justice. None of the said circumstances, has been shown by the petitioner for this Court to invoke its revisional jurisdiction so as to enhance the sentence of life imprisonment imposed on Gurdish Singh (respondent No.2) to that of death penalty.

The other prayer is for grant of compensation of Rs.50 lacs. In the present case, no compensation has been awarded by the learned trial Court. Therefore, in terms of the proviso to Section 372 CrPC an appeal lies against award of inadequate compensation, which can be challenged and not the omission to pay compensation as held in N.P. Ahammed v. Abdul Latheef and another, 2011 (104) AIC 500 (Kerala).

According to learned counsel for the petitioner, in case the revision petition has been filed in the High Court then in view of Section 401 (5) CrPC the High Court on being satisfied that such application was made under the erroneous belief that no appeal lies thereto, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

There is no dispute to the said proposition. However in our view, an appeal is not maintainable against inadequate sentence or against an order where no compensation has been

granted. In case the petitioner has any claim for compensation, she may, if so advised, urge the same in the pending criminal appeal No.D-184-DB of 2014 filed by respondent No.2 Gurdish Singh which was admitted on 4.2.2014.

In the circumstances, there is no merit in the revision petition which would warrant interference of this Court. The petitioner may, if so advised, seek other appropriate remedies.

The revision petition is, accordingly, dismissed. Since, the revision petition has been dismissed on merit, the question of delay of 263 days in filing the revision petition is only academic and the same is also dismissed. Nothing stated or observed herein shall be construed as an expression of opinion on merits of the case in respect of the appeal i.e. CRA No.D-184-DB of 2014 filed by Gurdish Singh (respondent No.2) against his conviction and sentence and the same shall be considered on the basis of evidence and material on record uninfluenced by any observations made herein.

(S.S. Saron)
Judge

(Rekha Mittal)
Judge

25.8.2015
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Note: Whether to be referred to the Reporter: Yes/No.