

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Rev. No. 2269 of 2015 (O&M)
Date of decision : 17.08.2015**

Ombir Singh

.....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Johan Kumar, Advocate
for the petitioner.

Mr. Gurdas Singh Salwara, DAG, Haryana.

ANITA CHAUDHRY, J.

The petitioner challenges the judgment passed by Additional CJM, Faridabad who convicted the petitioner under Section 377 IPC and sentenced him to undergo rigorous imprisonment for a period of 6 months along with a fine of Rs.1000/-. The appellate Court vide its judgment dated 02.06.2015 dismissed the appeal on merits and also on the ground of delay.

The allegations against the petitioner were that a child of 9 years had been sodomized by the petitioner. When the parents went to the house of the petitioner, he threatened to kill them. The Courts below have examined the oral as well as the medical evidence and had convicted and sentenced him.

In this revision petition, the petitioner did not challenge the findings of conviction & had limited it to the question of sentence. It has been urged that the petitioner is in custody for three months and looking at the entire facts and circumstances of the case, it would be just and proper to reduce the sentence to the period already undergone by him. He also urged that there was no evidence of injury and the oral statement had been accepted but he does not challenge the finding on merits.

I have heard both the sides and have perused the record.

Medical evidence is available. There were injuries on the anus. The finding of conviction has not been challenged but there is enough evidence, therefore, the finding so far as the conviction is concerned, is affirmed.

The counsel for the petitioner refers to two judgments ***Sukhdeo Singh Vs. State of Rajasthan*** 2002 CrLJ 1975 & ***Suresh alias Suresh Chand Vs. State*** 1995(4) CCR 567 and has urged that in Sukhdeo Singh's case, the sentence had been reduced to already undergone. He urges that in the other case the accused had been let off on probation.

The State counsel submits that the Courts below had already taken a lenient view and had awarded 6 months' imprisonment along with fine of Rs.1000/- and the sentence does not commensurate with the crime and the child would have been traumatized and it would have instilled so much of fear in him.

In *Sukhdeo Singh's* case, the petitioner had been convicted under Section 377/511 IPC and was sentenced to 1 year imprisonment with fine. There, the petitioner had undergone 8 months of custody and therefore, the sentence was reduced to already undergone. In the present case, it is not a case of attempt. The act was committed. Therefore, the judgment is of no help.

As regards the other case relied upon by the petitioner, it was a case of theft of a cycle in which the benefit of probation had been granted. Considering the offence, I am not inclined to interfere. The Courts below have already taken a lenient view.

The revision is dismissed.

17.08.2015
sunil

(ANITA CHAUDHRY)
JUDGE