

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRR No.2796 of 2014
Date of Decision : 28.10.2015

Smt. Mukesh

.....Petitioner

Vs.

Pat Ram and another

.....Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Surinder Dagar, Advocate for the petitioner.
Mr. Naresh Kumar, Advocate for respondent no.1.
Mr. Kapil Aggarwal, Addl. A.G., Haryana.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Feeling aggrieved against the impugned judgment dated 29.5.2014 passed by the learned Additional Sessions Judge, thereby reducing the sentence of the convict-respondent to the period already undergone by him i.e. 3 months and 10 days out of total sentence awarded to him for 3 years, complainant has approached this court by way of instant revision petition, for setting aside the impugned judgement.

Notice of motion was issued.

Learned counsel for the petitioner, while impugning the judgement passed by the learned Additional Sessions Judge submits that the learned appellate court completely misread the relevant facts and circumstances of the case, as well as the factually correct and legally justified

judgement passed by the learned trial court. He further submits that the petitioner has duly proved her case by leading cogent and convincing evidence and only thereafter the judgement of conviction was passed. Accordingly, the convict was awarded the sentence, which was on lower side. However, without appreciating the true factual as well as legal aspect of the matter, the learned Additional Sessions Judge has misdirected himself, while exceeding his jurisdiction and reduced the sentence of 3 years to 3 months and 10 days, without assigning any reason, much less cogent reasons. He prays for setting aside the impugned judgment by allowing the present petition.

On the other hand, learned counsel for the respondent-convict submits that the learned Additional Sessions Judge has rightly passed the judgment, which deserves to be upheld. He further submits that the convict was an old person. He was the only bread winner of the family. The learned appellate court has rightly took the lenient view while reducing the sentence. He prays for dismissal of the present petition.

Having heard learned counsel for the parties and after going through the record of the case, this court is of the considered opinion that since the learned Additional Sessions Judge has failed to assign sufficient reasons for arriving at the conclusion for the purpose of reduction of sentence from 3 years to 3 months and 10 days, the impugned judgement cannot be sustained. It is so said, because the convict-respondent has neither repaid the amount of Rs.8,55,000/- to the petitioner with a view to show his bonafide nor he had undergone even reasonable period, so as to entitle him for reduction of the remaining sentence. In such a situation, reducing almost the entire sentence of the convict-respondent would amount to granting premium to the offender. Having said that, this court feels no hesitation to conclude that since

the impugned judgement has been found to be suffering from patent illegality, the same cannot be sustained.

In view of the above and leaving the scope of an amicable settlement between the parties open, impugned judgement dated 29.5.2014 passed by the learned Additional Sessions Judge, Palwal, is hereby set aside. The matter is remitted back to the learned first appellate court to decide the matter afresh, after granting due opportunity of being heard to both the parties, by passing an appropriate judgement, in accordance with law. Since the criminal complaint is of the year 2008, learned first appellate court is directed to decide the matter at an early date and preferably within a period of six months.

With the above said observations made and directions issued, the present petition stands disposed of.

28.10.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE