

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.3885 of 2015 (O&M)****Date of Decision: November 28 2015**

Krishan Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manoj K. Tanwar, Advocate
for the petitioner.

Ms.Arun Kumar, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Krishan Kumar against State of Haryana under Section 401 Cr.P.C., challenging the impugned judgment of conviction dated 19.08.2015 and order of sentence dated 21.08.2015 passed by learned Judicial Magistrate Ist Class, Gurgaon, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹2000/- and in default of payment to undergo simple imprisonment for a period of one month under Section 354 IPC and also challenging the judgment dated 05.10.2015 passed by learned Addl. Sessions Judge, Gurgaon, vide which appeal filed by petitioner was dismissed.

The brief facts of the case are that FIR in the present case was registered on the basis of complaint dated 04.07.2013 filed by Kavita, in which it is mainly stated that she had boarded a jeep from village Kalwari for Bilaspur Chowk on 02.07.2013 and co-passengers were also sitting in the said Jeep. One of the co-passenger Krishan @ Ushi (present petitioner) tried to outrage her modesty by touching her thigh with his hand.

After appreciating of evidence, learned JMJC, Gurgaon convicted and sentenced the petitioner as stated above vide judgment of conviction dated 19.08.2015 and order of sentence dated 21.08.2015. An appeal was filed by the petitioner, which was also dismissed by learned Addl. Sessions Judge, Gurgaon vide judgment dated 05.10.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings given by the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only on the quantum of sentence and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Custody certificate of the petitioner has been filed. As per

the custody certificate, the petitioner has already undergone 3 months including remission out of the total sentence. The petitioner has been sentenced to undergo imprisonment for a period of six months out of which three months he has already undergone. Learned counsel for the petitioner contended that petitioner is first offender and he has small children to look after and he is only bread earner of the family.

Keeping in view the facts and circumstances of the present case and the fact that petitioner is suffering from long protracted criminal trial since 04.07.2013 i.e. for more than two years and further in view of the fact that petitioner has small children and has already undergone almost half of the total sentence, the sentence of the petitioner is reduced to the sentence already undergone by him. Petitioner Krishan Kumar, who is in custody, be released forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

With the above-said modification in the sentence, the present revision petition stands partly allowed accordingly.

November 28, 2015
Vgulati

(INDERJIT SINGH)
JUDGE