

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

Crl. Revision No.70 of 2015 (O&M)
Date of decision: 1.4.2015

Raj Kumar @ Raju

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sandeep Arora, Advocate for the petitioner.
Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J.

Petitioner Raj Kumar @ Raju had been convicted by the Judicial Magistrate Ist Class, Jalandhar, under section 427, 452, 323 & 506 IPC and was sentenced to undergo RI for six months under section 427 IPC, one year under section 452 IPC, six months under section 323 IPC and six months under section 506 IPC. He was also directed to pay a total fine of Rs.800/-.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by Additional Sessions Judge, Jalandhar, vide judgment dated 15.12.2014.

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 19.12.2008, Head Constable Sarwan Dass alongwith other police officials was present at the turning of Ram Bagh, Deep Nagar, Jalandhar Cantt, where Rakesh Kumar son of Parma Nand came and got his statement recorded to the effect that he is suffering from 80% Polio from the childhood and walk with crutches and is running a STD booth. On 12.2.2008 at about 7.00 P.M., he alongwith his father Parmanand, was present in the shop. Raj Kumar @ Raju (petitioner herein) came there in drunkard condition and started hurling abuses to him and his father. His father requested him not to behave in such a manner but he did not stop and started breaking glass of their shop and also struck his head with glasses. When he and his father tried to stop him, he got injured and entered inside the shop and also damaged glasses there. Complainant and his father went inside the house due to fear and raised alarm. Then Raj Kumar alias Raju loudly threatened to kill them. On this, people gathered at the spot and the accused ran away

from the spot in injured condition. The reason behind the said occurrence was that uncle of complainant, who is teacher, was having some dispute with family of accused and due to that he earlier also quarreled with the complainant and a complaint in that regard was pending before the higher officers. On this 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 427, 452, 506 and 323 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 four 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. In defence, he examined Dr. Raman Kumar Gupta, ENT Specialist, Civil Hospital, Jalandhar as DW1 and closed his defence.

On the basis of the evidence on record, the learned trial court held the petitioner guilty of the charge framed against him and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Jalandhar on 15.12.2014.

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 persons and main bread winner of his family. 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.

Learned State counsel has placed on record affidavit of Paramjit Singh Sandhu, Superintendent, Central Jail, Jalandhar at Kapurthala, according to which the petitioner has undergone custody of 03 months & 23 days and his custody including remission is 04 months and 02 days till date.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to four months, but he is burdened with a fine of Rs.30,000/-, to be paid as compensation to the complainant Rakesh Kumar. The fine be deposited within three months from the date of receipt of certified copy of this order. However, in case fine aforesaid is not deposited within the stipulated period, the modification in quantum of sentence shall stand

withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court.

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

(RAJAN GUPTA)
JUDGE

1.4.2015
'rajpal'