

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1214-2001

Date of decision: 17.02.2016

Hukma and others

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. SP Laler and Mr. Ravinder Malik, Advocates
for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

RAMENDRA JAIN, J.

By filing the instant revision, the petitioners Hukma, Desa, Bahadur and Mahender have challenged the concurrent findings of conviction recorded by both the Courts below. The trial Court vide judgment of conviction dated 24.11.2000 and order of sentence dated 25.11.2000, convicted the petitioners under Sections 354/452 read with Section 34 of the Indian Penal Code (IPC) and the maximum sentence awarded to them is to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹ 500/- each under Section 452/34 IPC. In default of payment of fine further undergo simple imprisonment for a

period of 15 days. Their appeal too was dismissed by the learned Additional Sessions Judge, Sonapat vide judgment dated 01.08.2001.

2. Briefly stated, complainant-Kelo Devi filed a private complaint under Sections 354/452 read with Section 34 IPC mentioning that on 16.05.1993, the petitioners gave beatings to her and her daughter-Rajesh. Simultaneously, they insulted and threatened them to play mischief with the honour of her aforesaid daughter-Rajesh. On her complaint, the police did not take any action. Again around 7.00 or 8.00 P.M. on 06.06.1993 all the petitioners entered her house. Petitioners No. 1 and 2, namely Hukma and Desa caught and fell her on the ground. Petitioner No. 2 caught her nipples. Petitioner No. 1 tried to open the string of her salwar. Petitioner No. 4-Mahender tore the shirt of her daughter-Rajesh from her breasts and petitioner No. 3-Bahadur forcibly tried to open her string. Petitioner No. 3 also exhorted that they shall be raped. Initially, the police arrested all the four petitioners, but set them free after three days and finally did not take any action against them.

3. After recording the preliminary evidence, all the petitioners were summoned under Sections 354/452 read with Section 34 IPC and charge-sheeted to face trial by the learned Magistrate.

4. After hearing learned counsel for the parties and going through the evidence brought on record, the learned trial Court convicted and sentenced the petitioners as indicated above in the opening part of this judgment.

5. I have heard learned counsel for the petitioners, learned State counsel and also perused the judgments passed by both the Courts below.

6. At the outset, learned counsel for the petitioners submits that he does not challenge the conviction part of the impugned judgment dated 24.11.2000, on merits and, thus, the same is upheld. However, he has prayed for taking a lenient view in the matter of sentence.

7. Learned State counsel has not raised any serious objection.

8. Perusal of record shows that the petitioners suffered a protracted trial for more than 7 years before the learned trial Court. The sword of punishment is hanging over their heads since last 23 years. As per custody certificate placed on record by the learned counsel for the petitioners, petitioners No. 2 and 4, namely, Desa and Mahender, respectively have undergone imprisonment for 8 months each, whereas petitioners No. 1 and 3-Hukma and Bahadur, have also undergone 6 months 19 days and 6 months 25 days, out of the maximum sentence of 1 year. Fine was paid by them before the learned trial Court.

9. Hence, by considering the overall facts and circumstances of the case, the sentence of 1 year awarded to all the petitioners under Section 452/34 IPC is reduced to the period of imprisonment already undergone by them.

10. With the above modification in the quantum of sentence, the instant revision petition stands disposed of accordingly.

February 17, 2016
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(RAMENDRA JAIN)
JUDGE