

**249 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-2211 of 2016 (O&M)
Date of Decision: 03.08.2016**

Ved Parkash

.....Petitioner

versus

Punjab & Haryana High Court and another

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Bijender Dhankhar, Advocate for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent conviction of the petitioner for the commission of offence under Section 193 IPC.

The case emanates from an occurrence dated 23.10.2001. An FIR was lodged with regard to the death of a girl. The petitioner was a witness. He made a completely inculpatory statement against the accused persons under Section 161 Cr.P.C. He was thereafter produced before the Magistrate where he got recorded a statement under Section 164 Cr.P.C. In that statement he withdrew a little bit but still stated that he had seen the girl with the accused persons. It is not disputed that thereafter the dead body of the girl was recovered and thus the statement of the petitioner was with regard to having last seen that girl with the accused persons. However,

when he appeared to give his testimony he made an about turn by stating that he knew nothing about the case. It is in these circumstances, that he had been convicted and sentenced to 3 years rigorous imprisonment and to pay a fine of Rs.1000/- in default of payment of fine he has been ordered to further undergo simple imprisonment for a period of fifteen days.

Custody certificate by way of affidavit of Shamsher Singh Dahiya, Superintendent of Jail, Central Jail-I, Hisar has been filed and the same is taken on record. Copy supplied to the counsel opposite. As per custody certificate the petitioner has undergone 03 months and 08 days of custody as on today.

Learned counsel for the petitioner has argued that the petitioner is 70 years old. He further argued that the petitioner was not the complainant and it was not because of his testimony the accused persons were acquitted but they were convicted and rather even their appeal was dismissed by this Court.

Learned DAG, however argued that even if statement made by the petitioner under Section 161 Cr.P.C. is ignored yet it can not be denied that the petitioner has made a volte-face from the statement he got recorded under Section 164 Cr.P.C. before the Magistrate and it was only because of this that this Court while dismissing the appeal had directed the lodging of the present case against the petitioner. He has pointed out that this is a heinous crime where a young girl was gang raped and murdered and the action of the petitioner in trying to save the culprit is morally and legally reprehensible.

Keeping in view the above facts, I do not deem it appropriate to set aside the conviction. However, in view of the age of the petitioner and in view of the fact that the maximum sentence has been imposed upon him, I reduce his sentence to 2 years rigorous imprisonment. The fine shall remain unchanged.

Revision petition stands disposed of.

Since the main case has been decided, the Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

03.08.2016
Pooja sharma-I

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No