

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

Crl. Revision No.276 of 2016 (O&M)
Date of decision: 29.01.2016

Vijay Taneja and anr.

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sukhjit Singh, Advocate, for the petitioner.
Mr. R.S. Randhawa, Addl.A.G., Punjab.

Rajan Gupta, J.

Petitioners Vijay Taneja and Deepak had been convicted by the Judicial Magistrate Ist Class, Ludhiana, under sections 294 and 509 IPC and were sentenced to undergo RI for three months and to pay a fine of Rs.500/- each.

The petitioners preferred appeal against the judgment of their conviction/sentence, which was dismissed by the Additional Sessions Judge, Ludhiana, vide judgment dated 30.11.2015.

Feeling aggrieved against the judgments of both the courts below, the petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners 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 incase conviction of petitioners 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 24.06.2006 at about 8.15 p.m., complainant Mamta Rani went out to purchase milk from the shop. At that time, petitioners alongwith other accused abused the complainant and started making obscene gestures towards her. When she resisted, they abused and threatened her. She narrated the entire incident to her mother. On the statement made by the complainant to SI Dalip Kumar, instant FIR was registered against the accused. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under Section 294/509 IPC, charge sheet was framed against the petitioners to which they pleaded not guilty and claimed trial.

To substantiate its case against the petitioners, the prosecution examined as many as four witnesses. The statement of accused under Section 313 Cr.P.C. was recorded, wherein the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. However, no witness has been examined in their defence.

On the basis of evidence on record, trial court came to

the conclusion that prosecution had proved its case beyond doubt and thus, convicted the petitioners for offence under Sections 294/509 IPC and sentenced them as already indicated above. 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 petitioners guilty of the charge framed against them. 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 petitioners is, thus, affirmed.

Even counsel for the petitioners, 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 petitioners are poor persons and main bread winner of their families old parents and having minor children and they are not previous convict. 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.

Incident occurred about 09 years ago. Stand of the State is that in case this court intends to maintain the conviction of the petitioners and reduce the quantum of sentence to that already undergone, State would have no reason to stand in the way of such orders. Thus, keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to the period already undergone by them. However, fine imposed shall remain intact.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentenced shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated hereinabove, the revision petition is dismissed.

29.01.2016

sukhpreet

**(RAJAN GUPTA)
JUDGE**