

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

Crl. Revision No. 2766 of 2016 (O&M)

Date of Decision: 09.11.2016

Beer Pal

.. Petitioner

Vs.

State of Haryana

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Manoj Kaushik, Advocate
for the petitioner.**

Mr. Apoorv Garg, DAG Haryana.

ANITA CHAUDHRY, J.

The petitioner was tried by the learned Judicial Magistrate Ist Class, Faridabad, under Sections 354 and 506, Police Station City Ballabgarh on the allegations that on 25.09.2011 in an inebriated condition, he uttered obscene words to the complainant and misbehaved with her and when people came to her rescue, he criminally intimidated her.

Though, the case of the accused was of denial, but the trial Court, on appraisal of the evidence on record, convicted the accused under Sections 354 and 506 IPC and substantively sentenced him to undergo rigorous imprisonment of one year and to pay a fine of Rs.500/- under each head. In default of fine, simple imprisonment for two months was awarded under the default clause. Both the sentences were ordered to run concurrently.

The appeal preferred by the accused was dismissed on

08.07.2016. Hence, this revision petition.

On 03.11.2016 when this revision petition came up for hearing, learned counsel had restricted his prayer only to the quantum of sentence. Limited notice was issued.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

It has been contended by learned counsel for the petitioner that the occurrence is of the year 2011 and the petitioner has undergone the agony of a protracted trial and thereafter his appeal remained pending and all this exercise took about five years. He submits that the petitioner is a first offender and is in custody for the last about four months and the only bread earner of his family. He had submitted the amendment in Section 354 IPC was carried out in 2013 and the occurrence is of 2011 and at that time no minimum punishment was prescribed. He has prayed for lenient view in the matter. It was urged that the son of the petitioner is getting married on 17.11.2016. He has placed on record the wedding card.

On the other hand, learned State counsel had opposed the prayer.

Since the findings recorded by the two Courts below have not been contested, conviction of the petitioner is maintained.

As per scheme of Article 20 of the Constitution of India more particularly clause (1), no person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor he can be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

As per the unamended provision of Section 354 IPC, no minimum sentence was prescribed and it was mentioned that it may extend upto two years or fine or both. Section 354 IPC was amended vide Criminal Law(Amendment) Act, 2013(13 of 2013), w.e.f. 03.02.2013 and the minimum sentence is one year which can be extended up to five years and fine. But it cannot be made operational retrospectively as per Article 20(1) of the Constitution.

Considering the fact that the petitioner is the first offender and during this period he has not indulged in any similar offence and the fact that he has undergone about four months of custody, this Court is of the considered view that ends of justice would met if his sentence is reduced to the period already undergone by him under Sections 354 and 506 IPC. Ordered accordingly. There would be no modification with regard to the fine. In case the petitioner has deposited the fine, he be released forthwith in this case, if not required in any other case.

With the above modification, the instant revision petition stands disposed of.

November 09, 2016
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No