

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

Crl. Revision No.2514 of 2011(O&M)
Date of Decision: December 12, 2017

Mehar Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. V.K. Gupta, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG Haryana.

JAISHREE THAKUR, J. (Oral)

The instant criminal revision has been filed against the order dated 10.02.2010/13.02.2010 passed by Ld. JMIC, Jagadhri by which the petitioner has been sentenced to undergo simple imprisonment for a period of six months for the offence committed under Section 354 of Indian Penal Code and against the order dated 20.09.2011 passed by Sessions Judge Yamuna Nagar at Jagadhri vide which he confirmed the judgment of conviction dated 10.02.2010 and the order of quantum dated 13.02.2010 passed by Ld. JMIC, Jagadhri.

2. In brief the facts of the case are that, an FIR No.202 dated 08.11.2005, under Section 354/506 of Indian Penal Code, has been registered at Police Station Radaur, on the statement of complainant-Rekha

Rani in which she has stated that, on 22.09.2005 at about 5/5.30 a.m. she was filling water from the tap and at that time her father-in-law came from the fields after answering the call of nature, caught hold of her arm and started pulling her towards his room. She raised a hue and cry in order to free herself and her mother-in-law Lakshmi Devi came and rescued her . Her father-in-law pushed her mother-in-law and also abused her and threatened to kill them. Upon hearing this noise, Bhagat Singh husband of complainant also reached there and both of them exchanged words. It was stated that if she had not raised hue and cry, her father-in-law would have committed rape upon her. On the basis of this statement, the instant FIR came to be registered.

3. After completion of necessary investigation, the challan was submitted in the court. After hearing both the sides, charge-sheet under Section 354 of Indian Penal Code was framed, to which the accused pleaded not guilty and claimed trial.

4. In support of its case, the prosecution has examined three witnesses in all. Smt. Rekha Rani, complainant was examined as PW1, Bhagat Singh was examined as PW2 and Smt. Lakshmi Devi was examined as PW3 and thereafter, evidence of the prosecution was closed. Statement of accused under Section 313 Cr.P.C. was duly recorded, in which he denied all the incriminating circumstances adduced against him and pleaded innocence. In his defence evidence, the accused examined Man Chand as DW1 and Jit Pal was DW2 and thereafter, his evidence was closed.

5. After hearing counsel for both the sides, the petitioner was held guilty and convicted and sentenced in the manner indicated above by

judgment of conviction dated 10.02.2010 and order of quantum of sentence dated 13.02.2017 passed by JMIC, Jagadhri. The petitioner challenged the said judgment of conviction and order of sentence in appeal, which has been dismissed by Sessions Judge, Yamuna Nagar at Jagadhri. Being aggrieved, the instant criminal revision came to be filed before this court.

6. I have heard learned counsel for the sides, apart from perusing the record.

7. Learned counsel for the petitioner would contend that as the prosecution has failed to prove the offence under Section 354 Indian Penal Code against the petitioner, therefore, the impugned judgment and order of conviction are liable to be set aside. It is argued that the statement of prosecution witnesses is not reliable, as they have made improvements in their statements made before the Investigating Agency. It is also contended that the petitioner is falsely implicated in the present case, as a criminal case was registered against the husband of complainant Bhagat Singh by the elder sister-in-law of PW2 on the allegations that he had broken her arm with a lathi blow. It is submitted that the petitioner is more than 87 years of age and is facing the agony of the protracted litigation since the year 2005 merely because the petitioner had executed a Will in favour of his sons Jeet Pal and Jagat Singh, depriving his wife Lakshmi Devi, his daughters and son Bhagat Singh.

8. On the other hand, learned counsel appearing on behalf of the respondent-State argues that the instant criminal revision has no merit and the judgments passed by both the Courts below are well reasoned and the same do not require any interference by this court.

9. I have heard learned counsel for the parties.

10. The scope of interference by the High Court in a revision petition is rather limited. The High Court may interfere if the petitioner can point out any material irregularity in the judgments rendered by the courts below and not on re appreciation of evidence. This court has gone through the judgments passed by both the Courts below and all these points raised before this Court, have been duly dealt with. This court does not find any illegality or irregularity in the findings recorded by both the courts below.

11. At this stage, learned counsel for the petitioner argued that the petitioner herein was aged about 77 years at the time of admission in jail and at present, he is more than 87 years of age and at the fag end of his life. It is contended that the petitioner herein was sentenced to undergo simple imprisonment for 06 months and as on date, he has already undergone actual sentence of 01 month and 28 days. It is submitted that there are number of mitigating circumstances in the present case, which would warrant that the punishment imposed upon the petitioner should be reduced to the period already undergone by him.

12. In this regard, reliance has been placed on a judgment rendered by this Court in ***Jasbir Singh @ Jasbir vs. State of Haryana, 2016(3) R.C.R. (Criminal) 797*** and the judgment passed by the Supreme Court in ***Kunjabai vs. State of Madhya Pradesh, 2015(4) R.C.R. (Criminal) 1037*** wherein in similar circumstances the sentence of the appellants was converted to the period already undergone.

13. At the time of occurrence, the petitioner was aged about 77 years and at present he is more than 87 years of age. A perusal of the

custody certificate filed goes on to show that the petitioner herein is not involved in any other case either pending or decided. The instant case FIR pertains to the year 2005 and the petitioner herein is facing the agony of protracted trial since last about 12 years, which itself to some extent can be considered as a mitigating circumstances in the background of this case.

14. Keeping in view the peculiar facts and circumstances of the present case and considering the old age of the petitioner, this court is of the considered view that interest of the justice would be met if the sentence awarded to the petitioner, who is now more than 87 years of age, is reduced to the period already undergone by him.

15. Therefore, the judgment and conviction dated 10.02.2010 passed by Ld. JMIC, Jagadhri which was affirmed by the learned Sessions Judge, Yamuna Nagar vide judgment dated 28.07.2015 is upheld, however, the sentence is modified by reducing the sentence of the revisionist-petitioner to the one already undergone him.

16. With the above modification, the instant criminal revision stands dismissed.

December 12, 2017

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No