

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

**CRR-3549-2012 (O&M)
Date of decision: 21.03.2017**

Sat Pal @ Bandri

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Kuldeep Khandelwal Advocate for
Mr. Mohit Rathee, Advocate for the petitioner.

Mr. C.S. Bakshi, Additional Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

The instant revision is directed against the judgment dated 09.10.2012 passed by the learned Sessions Judge, Kaithal affirming the judgment of conviction dated 08.09.2009 and order of sentence dated 09.09.2009 of the Judicial Magistrate 1st Class, Kaithal, whereby the petitioner was convicted under Section 456 IPC and sentenced to undergo SI for a period of one year and to pay a fine of Rs.1000/- and in default of payment of fine to further undergo SI for a period of three months.

At the very outset, learned counsel appearing for the petitioner submits that he does not assail the judgment of conviction on merits and only prays for reduction of sentence.

In view of such limited prayer, this Court need not dilate on the facts of the case in detail. Suffice it to notice that the process of law was set in motion on the complaint of Banarsi Dass relating to an occurrence that took place on the intervening night of 01/02.06.2002. Complainant asserted

that at about 10 P.M., on 01.06.2002, he was sleeping in the front of the room in the *varandah* of the house at the first floor whereas his wife and children were sleeping inside the room. On 02.06.2002 at about 2.30 A.M., the complainant felt as if someone had hit against his cot. Upon waking up, he found a person moving beside his cot in a drunken condition. When the complainant tried to catch that person, he was given a push, as a result of which, he fell down. Complainant then picked up a *danda* lying near his cot and gave a blow on the head of the assailant but such person is stated to have jumped from the boundary wall constructed on the first floor of the house and as a result of which he suffered injuries. Complainant then ran downstairs and his wife Rashmi and neighbours also came present and succeeded in catching hold of the assailant. Identity of the assailant was found to be Sat Pal @ Bandri (present petitioner).

Learned counsel appearing for the petitioner would submit that the petitioner is the only earning member of the family and is a first time offender. The incident relates back to the year 2002 and the petitioner has faced the pangs of a trial followed by an appeal for the last more than a decade.

In the considered view of this Court, there are sufficient mitigating circumstances to take a lenient view as regards quantum of sentence.

Vide order dated 20.12.2012 passed by this Court, the sentence of the petitioner was suspended during pendency of the criminal revision. At the stage of suspending the sentence, it was noticed by this Court that the petitioner had undergone 3 months and 25 days as on 05.12.2012 against the

substantive sentence awarded of one year.

It so transpires that the present revision was dismissed on 30.11.2016 on account of non appearance of the counsel. A report dated 28.12.2016 placed on record of the learned Chief Judicial Magistrate, Kaithal would show that after dismissal of the instant revision for non prosecution, the petitioner was rearrested and lodged in District Jail, Kaithal on 26.12.2016 for undergoing the remaining part of the sentence.

Upon an application having been preferred, the order dated 30.11.2016 dismissing the instant petition for non prosecution was recalled on 27.02.2017 and the present revision was restored to its original number.

As per custody certificate dated 24.01.2017, the petitioner has as of date undergone a total sentence period of 5 months and 18 days. He is not stated to be involved in any other criminal proceedings. The petitioner whose sentence had been suspended by this Court on 20.12.2012 is not stated to have misused the concession of bail thereafter.

The facts noticed hereinabove would be taken as sufficient mitigating circumstances to reduce the sentence of the petitioner.

Accordingly, while maintaining the conviction of the petitioner, the revision petition is dismissed with the directions that the sentence of the petitioner is reduced to the period already undergone. Petitioner be released upon payment of fine, if not already paid.

Revision petition is disposed of in the aforesaid terms.

21.03.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |