

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

**CRR No.1726 of 2015 (O&M)
Date of decision: 27.02.2017**

Smt Lalita Devi

.....Petitioner

Versus

Sandeep and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

Ritu Bahri, J.

CRM No.15620 of 2015

For the reasons mentioned in the application, same is allowed and delay of 359 days in filing of the petition is condoned.

CRR No.1726 of 2015

This petition has been filed against the judgment dated 10.12.2014 passed by the Sessions Judge, Narnaul, dismissing an appeal filed by the petitioner (Smt. Lalita Devi) against the order dated 03.02.2014 passed by the Judicial Magistrate Ist Class, Narnaul, whereby accused-respondent No.1 was ordered to be released on probation of good conduct for a period of three years.

FIR No.33 dated 14.03.2012, under Section 354 IPC was registered at Police Station, Ateli on the basis of a complaint made by Sunil Kumar-complainant to the effect that on 14.03.2012, at about 3.00 P.M.,

when his sister-in-law Lalita Devi (petitioner herein) went to answer the call of nature, she was stalked by accused-Sandeep, who outraged her modesty in the fields. In this background, the FIR was registered.

After investigation, challan was presented and charge under Section 354 IPC was framed against accused-respondent No.1, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined SI Satyabir Singh (PW-1), Subhash, Photographer (PW-2), ASI Ashok Kumar (PW-3), Sunil Kumar-complainant (PW-4), Lalita (PW-5) and Abhay Singh, EHC (PW-6). On conclusion of evidence of prosecution, statement of accused-respondent NO.1 under Section 313 Cr.P.C. was recorded, wherein entire incriminating evidence was put to him. However, he denied the same and pleaded innocence. No evidence was led in defence.

Trial Court, after going through the evidence led by the prosecution, held guilty and convicted accused-respondent No.1 for commission of offence punishable under Section 354 IPC vide judgment dated 01.02.2014. However, vide impugned order dated 03.02.2014, he was released on probation of good conduct for a period of three years. Appeal against the said order has been dismissed by the Sessions Judge, Narnaul vide impugned judgment dated 10.12.2014. Hence, this petition.

While dismissing the appeal filed by the petitioner, the appellate Court has observed that the complainant had no right to file an appeal under Section 372 Cr.P.C. for enhancement of sentence, as an appeal against the sentence on the ground of its inadequacy could be filed by the State Government under Section 377 Cr.P.C and the State Government had not preferred any appeal in this case. It has been further observed that proviso to

Section 372 was inserted by the Code of Criminal Procedure, Amendment Act, 2008, w.e.f. 31.12.2009, whereby victim/complainant has been given a right to prefer an appeal against any order passed by the Court on three grounds, which are as under:-

- (i) while acquitting accused;
- (ii) while convicting for lesser offence;
- (iii) while imposing inadequate compensation.

In the present case, accused-respondent No.1 had been held guilty and released on probation. Hence, case of the complainant is not covered under any of the above conditions.

Moreover, Sandeep-respondent No.1 was released on probation for a period of three years vide order dated 03.02.2014, meaning thereby, his probation period has already been completed as on 03.02.2017.

Even otherwise, having examined the impugned judgment/order, no illegality, much less perversity, has been found therein wanting interference by this Court while exercising its revision jurisdiction.

Resultantly, the present petition is dismissed.

27.02.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No