

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

Criminal Revision No.3061 of 2014(O&M)

Date of Decision: August 29 , 2017.

Jai Bhagwan PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. P.R.Yadav, Advocate
for the petitioner.

Mr. Sanjay K.Saini, AAG, Haryana.

LISA GILL, J.

The petitioner has been convicted for the offences punishable under Sections 354/451 IPC by the learned Judicial Magistrate First Class, Rewari vide judgment dated 18.02.2012. By a separate order passed on 21.02.2017, the petitioner has been sentenced to undergo simple imprisonment for a period of one year, besides, pay a fine of ₹2,000/- and in default thereof, to undergo further simple imprisonment for one month for the offence punishable under Section 354 IPC. He is sentenced to undergo simple imprisonment for a period of one year, besides, pay a fine of ₹2,000/- and in default thereof, to undergo further simple imprisonment for one month for the offence punishable under Section 451 IPC.

All sentences are ordered to run concurrently.

The appeal preferred by the petitioner against his conviction and sentence was dismissed by the learned Additional Sessions Judge, Rewari vide judgment dated 21.08.2014. Aggrieved therefrom, the present revision petition has been filed.

The conviction of the petitioner is not challenged on merits and the prayer is restricted to the quantum of sentence. Notice of motion was issued to the said limited extent.

Brief facts of the case are that, FIR No.216 dated 26.10.2009 under Sections 354/452 IPC was registered at Police Station Khol on an application submitted by the alleged victim. The victim, a married lady, stated that her husband was not present at home on 17.10.2009 on the occasion of Diwali. He was bursting crackers with the children. After some time, the victim called her children home for having food. The victim alongwith her children had their food. She put her children to sleep. The victim, it is stated, was waiting for her husband when at about 12.00 midnight, the petitioner entered their home. The entrance door of her home was open. The petitioner entered her room and on finding her alone caught hold of her hand. He tried to force himself upon her. In the meantime, the victim's husband returned home, upon which the petitioner got perplexed as he had also imbibed alcohol. The victim's husband immediately closed the door and went to call the petitioner's father Ram Pat. In the meantime, the petitioner broke open the door. The victim got scared. The victim left for the house of her younger sister out of fear of her husband and society. It is further stated that she returned on 26.10.2009 and thereafter, her statement before the police was recorded in support of the application already submitted by her

husband at Police Post Dahina. It was thus prayed that action be taken against the petitioner.

Final report under Section 173 Cr.P.C. was presented after completion of investigation. The petitioner was charged for the commission of the offences punishable under Sections 354/452 IPC. He pleaded not guilty and claimed trial.

The prosecution examined PW1 Constable Amit Kumar, PW2 Anand Kumar i.e., the husband of the victim, PW3 ASI Laxmi Narain and PW4 Sube Singh, retired Sub Inspector. The victim committed suicide on 09.11.2009, therefore could not be examined.

The petitioner in his statement under Section 313 Cr.P.C. denied the incriminating evidence put to him and pleaded false implication.

The learned trial court on consideration of the facts and circumstances of the case as well as the evidence on record concluded that the prosecution had proved its case against the petitioner beyond reasonable doubt therefore, he was convicted and sentenced as detailed above. The learned Additional Sessions Judge, Rewari dismissed the appeal preferred by the petitioner against his conviction and sentence while observing that there is no infirmity or illegality in the well reasoned judgment of conviction and order of sentenced passed by the learned trial court.

As noted earlier, learned counsel for the petitioner has not challenged the petitioner's conviction on merits. It is vehemently argued by learned counsel for the petitioner that he is a poor person. He has been facing the agony of trial since the year 2009. The petitioner, it is submitted, is not

involved in any other case either prior or subsequent to the FIR in question. The petitioner as well as the victim, it is stated, belong to the same community. The petitioner stated to be working as a labourer, is now married with a family to support. Learned counsel relies upon the judgment of the Hon'ble Supreme Court in **Satyaendra Dayal Khare v. State of Maharashtra, 2005(12) SCC 485** to urge that the ends of justice would be met in case the sentence of one year of simple imprisonment imposed upon the petitioner be reduced to the one already undergone. Learned counsel for the petitioner also relies upon the decisions of this Court in **Dilbagh Singh @ Bagga v. State of Punjab, 2009(4) RCR(Crl.) 666** and **Parkash @ Ghamandi v. State of Haryana, 2008(1) RCR (Crl.) 823** wherein the sentence imposed upon the said accused was reduced to that of one already undergone i.e., two and half months.

Learned counsel for the State has opposed the prayer of the petitioner while submitting that no ground whatsoever is made out for reduction of the sentence imposed upon the petitioner as both the learned courts below have rightly concluded the petitioner to be guilty of the offences as charged. However, it is not denied that the petitioner has undergone two months and fifteen days of the sentence imposed upon him and there is no other case in which the petitioner is involved either before or after the registration of the FIR in the present case. The petitioner is a labourer having a family to support.

Having heard learned counsel for the parties, it is considered just and expedient to reduce the sentence imposed upon the petitioner from one year simple imprisonment to the period already undergone for the offences punishable under Sections 354 as well as Section 451 IPC. Ordered accordingly. Both the

sentences to run concurrently. However, the fine imposed upon the petitioner is increased from ₹2,000/- each to ₹12,500/- each for the offences under Sections 354 and 451 IPC. The sentence for default in payment of fine is maintained. The petitioner is on bail. Bail bonds be discharged subject to deposit of fine.

This revision petition is disposed of with the conviction being upheld and modification in the sentence as detailed above.

August 29, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No