

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1926 of 2016 (O&M)

.....

Date of decision:28.9.2017

Sonu alias Bona

...Petitioner

v.

State (U.T., Chandigarh)

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Bikramjit Singh Randhawa, Advocate for the petitioner.

Mr. Sukant Gupta, Additional P.P., U.T., Chandigarh.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 4.2.2016 passed by learned Additional Sessions Judge, Chandigarh, whereby the appeal filed by the petitioner against the judgment of conviction and the order of sentence dated 28.11.2014 passed by the learned Judicial Magistrate Ist Class, Chandigarh, convicting and sentencing the petitioner for the offence under Section 377 IPC to undergo imprisonment for three years and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment for six month, has been dismissed.

From the record, I find that challan was presented against the present petitioner Sonu alias Bona in the FIR No.211 dated 7.4.2008

registered for the offence under Section 377 IPC at Police Station Sector 39, Chandigarh.

The brief facts of the case as noted down by the learned Judicial Magistrate Ist Class, Chandigarh in his judgment dated 28.11.2014 are given as under:-

“The case of the prosecution is that on 7.4.2008, Smt. Pushpa Devi wife of Kashmir Singh, resident of H. No. 3944, Sector 56, Chandigarh came at Police Chowki along with her son and submitted a complaint to the In-charge to the effect that she is Pushpa Rani, wife of Kashmir Singh, resident of 3944, Sector 56, Chandigarh and reside at the given address along with her family. She is a housewife. Today at about 12.30 a.m. one boy named Sonu came to her residence, who is known to her elder son, Karan. After coming at their home, he asked about Karan and sought his practical notebook. She intimated him that Karan is not at home, but he preferred to sit at her house and wait and went away upstairs along with her younger son, (--- victim). She has doubt that this person has done something wrong with her son, (--- victim). Hence medical examination of her son be conducted and strict action be taken against the accused. Investigation was launched and after completion of investigation, the challan was submitted in the Court as per Section 173 Cr.PC.”

The prosecution examined PW-1 Pushpa Devi, victim as PW-2, Dr.

Deepak Sharma as PW-3 and Inspector Poonam Dilawari as PW-4 and closed the prosecution evidence. Statement of accused under Section 313 Cr.P.C. was recorded.

The learned Judicial Magistrate Ist Class, Chandigarh, after appreciating the evidence, convicted the accused for the offence under Section 377 IPC and sentenced him to undergo imprisonment for three years and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment for six months. The fine was paid. An appeal was filed by the present petitioner before the Court of Session, which was also dismissed by the learned Additional Sessions Judge, Chandigarh.

In the present case, learned counsel for the petitioner does not dispute the concurrent findings recorded by the Courts below regarding conviction. However, he prayed for reduction of sentence, therefore, notice of motion was issued qua the quantum of sentence only.

Mr. Sukant Gupta, learned Additional P.P., U.T., Chandigarh has put in appearance on behalf of the respondent-U.T. and contested this revision petition.

I have heard learned counsel for the petitioner as well as learned Additional P.P. for the respondent-U.T. and have gone through the record.

In the present case, the victim is stated to be of seven years of age at that time.

Keeping in view the age of the victim as well as the nature and gravity of the offence and the fact that the petitioner has been sentenced

only for three years, therefore, I do not find it a fit case where the petitioner is entitled to any leniency.

Therefore, I find no ground for reduction of sentence. Hence, this criminal revision petition is dismissed.

September 28, 2017.

(Inderjit Singh)
Judge

hsp

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