

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

**CRM No. 21278 of 2016 in/and
CRR No.2487 of 2016
Date of decision: 02.02.2017**

Hassan alias Hussa

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.S. Tewatia, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Ritu Bahri, J.

CRM No. 21278 of 2016

Custody certificate, filed by learned State counsel, is taken on record.

As per custody certificate, out of 01 year, the applicant-petitioner has undergone 10 months and 01 day in custody.

In view of the said fact, the main petition i.e. 2487 of 2016 is taken up today itself for its disposal.

CRR No.2487 of 2016

This petition has been filed against the judgment dated 08.04.2016 passed by the Sessions Judge, Mewat, dismissing the appeal filed by accused-petitioner, Hassan alias Hussa, against the judgment of

conviction dated 10.12.2015 and order of sentence dated 11.12.2015 passed

by the Judicial Magistrate Ist Class, Ferozepur Jhirka, whereby he has been sentenced as under:-

Offence	Sentence
U/S 354 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-.
U/S 452 IPC	To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-.
U/S 506 IPC	To undergo rigorous imprisonment for a period of three months.

The FIR was registered on the basis of complaint made by Savita-complainant to the effect that she was employed as a Helper in Anganwari Centre, Bhadas. On 11.11.2011, when she was cleaning the gallery of her house, accused-petitioner came there and asked her as to why she did not love her. Thereafter, he caught hold of her hand. Upon this, complainant went inside the house and narrated this incident to her family members. When the family members of the complainant came in the gallery, accused-petitioner ran away from the spot. Thereafter, he along with some other persons, came to house of the complainant and threatened her with dire consequences, if the matter was reported to the police. Earlier also on 24.07.2011, he had entered the house of the complainant and teased her. At that time, the matter was reported to the police, but no action was taken. In this background, the FIR was registered. On completion of investigation, challan was prepared and presented in the Court.

Copies of challan and other documents were supplied to the accused-petitioner free of costs, as envisaged under Section 207 Cr.P.C. Thereafter, finding a prima facie case, charges under Sections 354, 452 and 506 IPC were framed against the accused-petitioner, to which, he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Raju (PW-1),

Savita-complainant (PW-2), Khem Chand (PW-3) and ASI Kanwar Singh (PW-4). On conclusion of the prosecution evidence, statement of the accused-petitioner under Section 313 Cr. P.C. was recorded, wherein entire incriminating evidence was put to him. However, he denied the same and pleaded false implication. He did not lead any evidence in defence.

Trial Court, after going through the evidence led by the prosecution, convicted and sentence the accused-petitioner in the aforesaid terms. Appeal against the said judgment was dismissed by the Sessions Judge, Mewat, vide his judgment dated 08.04.2016. Hence, this petition.

A perusal of the impugned judgments shows that there was no previous enmity or grudge between the parties, on the basis of which, the complainant could involve the petitioner in a false case. Raju (PW-1) has deposed that on 24.07.2011, at about 5:00 A.M., he was sleeping while his wife-Savita was sweeping outside. After hearing the voice of his wife, he went outside and found that accused (petitioner) was behaving with his wife in indecent manner. On seeing him, the accused fled away. Thereafter, on 11.11.2011, he repeated the same incident. In his cross-examination, this witness has stated that he saw the accused from behind when he was trying to run away. Savita Rani-complainant (PW-2) also stated that accused entered her house on 24.07.2011 and molested her. After raising an alarm, he ran away. Thereafter, on 11.11.2011, accused-petitioner again misbehaved with her. In this regard, she made a complaint, Ex.PW1/A, to the police. Khem Chand (PW-3) supported the version of the complainant and identified the accused. ASI Kanwar Singh (PW-4) corroborated the version of the prosecution.

After going through the impugned judgments, this Court is of the

view that conviction of the petitioner is rightly based on the evidence given by Raju (PW-1), Savita Rani-complainant (PW-2) and Khem Chand (PW-3). Moreover, in the absence of any enmity between accused-petitioner and the complainant party, no ground is made out to interfere in the impugned judgment of conviction.

Learned counsel for the petitioner, at the outset, does not challenge the conviction on merits and restricts his prayer to quantum of sentence.

In this view of the matter, the present petition is dismissed. However, a lenient view can be taken on the quantum of sentence. In this case, the FIR was registered on 15.11.2011. The petitioner has been facing the agony of a protracted criminal trial for the last more than 5 years. As per custody certificate, he has undergone 10 months and 01 day in custody out of 01 year. Moreover, he is not a previous convict. In these circumstances, the sentence of imprisonment awarded to the petitioner is reduced to the period already undergone and a direction is given that the petitioner be released forthwith to the satisfaction of CJM/Duty Magistrate, Mewat, if he is not required in any other criminal case.

With the above modification/direction, the present petition stands disposed of.

(RITU BAHRI)
JUDGE

02.02.2017
ajp

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>