

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

Crl. Revision No.3466 of 2016 (O&M)

Date of Decision: April 24, 2017.

Nishan Singh

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rishu Mahajan, Advocate
for the petitioner (s).

Ms. Shivali, A.A.G. Punjab,
for respondent-State.

SURINDER GUPTA, J.(Oral)

Petitioner was convicted by the trial Court vide judgment dated 29.01.2015 and sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹1000/- for the offence punishable under Section 377 read with Section 34 of Indian Penal Code (for short-IPC) and to undergo rigorous imprisonment for one year and to pay a fine of ₹500/- for the offence punishable under Section 506 read with Section 34 IPC.

The allegation against the petitioner is that he along with his co-accused committed carnal intercourse with complainant. Co-accused Inderjit Singh died while Gurpreet Singh was declared proclaimed offender.

Petitioner filed appeal against his conviction and sentence, which was dismissed by the Appellate Court. However, the sentence awarded to him for the offence punishable under Section 377 read with Section 34 IPC was reduced from rigorous imprisonment for three years to rigorous imprisonment for two years, maintaining the remaining sentence as awarded by the trial Court.

Learned counsel for the petitioner has not challenged the conviction of petitioner as recorded by the Courts below, however, he requests for a lenient view regarding quantum of sentence stating that petitioner has two minor children, one is aged about 2½ years and other is about 3½ years old. He is also having old aged parents to look after. In support of his contention, he has placed on record copy of Aadhaar Cards of his both the children. Petitioner is 33 years of age and at the time of occurrence, he was young boy of 27 years of age. He is not a previous convict and has undergone imprisonment of about eight months by now.

Learned State counsel has argued that neither of the submission made by learned counsel for the petitioner makes out any reason for further reduction in the sentence awarded to him. The petitioner has committed offence of unnatural carnal intercourse with a young boy aged about 12 years, who belong to a very poor strata of the society. The offence committed by him is quite serious in nature and the punishment awarded to him commensurate the nature of offence committed by him.

Perusal of the judgment of trial Court shows that the petitioner was not a previous convict and was of the young age of about 27 years at the time of commission of offence. He is alleged to be only bread winner of the family and has very young children to look after.

In view of the above facts, I am of the opinion that there are reasons to re-look the quantum of sentence awarded to the petitioner. Keeping in view the antecedents and the other circumstances as submitted by learned counsel for the petitioner, the sentence awarded to him by the Courts below for the offence punishable under Section 377 IPC is further reduced to rigorous imprisonment for 18 months. The sentence of fine imposed under Section 377 IPC is, however, enhanced from ₹1000/- to ₹5000/-. Remaining sentence awarded to the petitioner under Section 506 IPC is maintained.

With the above modification in the quantum of sentence, this petition is disposed of.

April 24, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No