

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

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Crl. Revision No. 4018 of 2016 (O&M)
Date of decision: 15.05.2017

Mandeep Singh and another

..... Petitioners

Versus

Rukman Kaur and another

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms Sushma Chopra, Advocate
for the petitioner

Mr. Jasdev Singh Thind, Advocate
for respondent No. 1

Mr. Mikhail Kad, AAG, Punjab

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Rekha Mittal, J.

The present petition directs challenge against consistent findings recorded by the Courts below whereby the petitioners have been convicted and sentenced for offence punishable under Sections 323 and 354 read with Section 34 of the Indian Penal Code (in short, IPC). However, sentence awarded by the trial Court was reduced to rigorous imprisonment for a period of six months under Section 323 IPC and one year for offence under Section 354 IPC with fine and a default stipulation by the Court of appeal.

Counsel for the petitioners has submitted that Rukman Kaur wife of Tarsem Singh filed a private complaint under Sections 323, 354, 356, 379, 384, 148 and 149 IPC against Hansa Singh and others wherein

five persons from the family of Hansa Singh were arrayed as accused. After conducting preliminary inquiry, all the five persons were summoned to face trial for the aforesaid offences. However, only the petitioners were convicted and sentenced for the aforesaid offences whereas co-accused *namely* Sukhdev Singh, Jaswinder Kaur and Manjit Kaur were acquitted of the offence charged against them by the trial Court. In the appeal preferred by the petitioners, their conviction for offence punishable under Sections 323 and 354 IPC was affirmed though substantive sentence was reduced noticed hereinbefore.

Counsel for the petitioners has not made any submissions to assail the consistent findings recorded by the Courts below. I have gone through the judgments passed by the Courts but unable to find out any error much less patent illegality in the consistent view taken by the Courts.

Counsel for the petitioners, however, has submitted that in view of nature of the offence, period of suffering due to pendency of criminal proceedings and the petitioners being not the previous convicts, they may be released on probation. In the alternative, it is submitted that as dispute between the parties has been settled by way of compromise and the complainant has submitted duly sworn affidavit in this regard, who is otherwise present in the Court, sentence awarded to the petitioners may be reduced to the period already undergone.

Custody certificates filed in the Court are taken on record.

Counsel for the complainant has produced original affidavit of Rukman Kaur with regard to compromise between the parties taken on record. It has been argued by him that as dispute between the complainant and the petitioners has been settled, an appropriate order may be passed.

I have heard counsel for the parties and perused the paper book.

The complainant initiated criminal proceedings in the year 2007. However, it is not clear from record as to on which date the petitioners caused appearance before the trial Court in pursuance of the summoning order. The trial culminated in a judgment of conviction and sentence against the petitioners on 11.04.2012. The appeal preferred by the petitioners was dismissed qua their conviction for offence punishable under Sections 323 and 354 IPC vide judgment dated 20.10.2016. The petitioners are in custody since decision by the Court of appeal on 20.10.2016 and till date, they have suffered custody for a period of more than approximately seven months and sentence including remission for a period of about eight months. Concededly, dispute between the petitioners and the complainant has been settled by way of compromise and a duly sworn affidavit of the complainant was filed in the Court.

Taking into consideration cumulative view of the matter, substantive sentence awarded to the petitioners for offence punishable under Section 354 IPC is reduced to the period already undergone.

The petition stands disposed of with modification in the aforesaid terms.

(Rekha Mittal)
Judge

15.05.2017
mohan bimbura

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