

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

-.-

Crl. Revision No. 4904 of 2016 (O&M)
Date of decision: 31.05.2017

Rakesh

..... Petitioner

Versus

State of Haryana

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Vivek Suri, Advocate
for the petitioner

Mr. Pawan Garg, AAG, Haryana

-.-

Rekha Mittal, J.

The present petition directs challenge against consistent findings recorded by the Courts below whereby the petitioner has been convicted and sentenced for commission of offence punishable under Section 354-B and 506 of the Indian Penal Code (in short, 'IPC').

Counsel for the petitioner, on 01.05.2017 had stated that he did not press the petition on merit but the petitioner may be heard on quantum of sentence. Accordingly, notice of motion was issued limited to the quantum of sentence. This apart, I have gone through the judgments passed by the Courts below but did not notice any patent error much less illegality in the findings holding the petitioner guilty of committing the charged offence. That being so, the judgments passed by the Courts below holding the petitioner guilty of committing offence punishable under Sections 354-B and 506 IPC are liable to be affirmed and ordered accordingly.

Coming to the sentence awarded to the petitioner, the petitioner is sentence to simple imprisonment for a period of three years with fine of Rs.1,000/- and default stipulation for offence under Section 354-B IPC. For offence under Section 506 IPC, he has been sentenced to simple imprisonment for a period of one year with fine of Rs.500/- and default stipulation by the trial Court. The order passed by the trial Court was affirmed in appeal without any variance.

Counsel for the petitioner has submitted that the petitioner is a first offender. No criminal case was ever registered against him. He is in the dock for the past more than two years since lodging of FIR on 02.01.2015. He has undergone custody for a period of more than eight months and sentence including remission for more than 9 months. It is prayed that substantive sentence awarded to the petitioner may be reduced to the period already undergone.

Counsel for the State has strenuously opposed prayer of the petitioner for reduction in sentence with the submission that in view of allegations raised against the petitioner by the victim, there are no mitigating circumstances in his favour.

I have heard Counsel for the parties and perused the paper book with their able assistance.

The criminal law was set in motion by Darshana wife of Deepak by lodging FIR No. 01 dated 02.01.2015. The petitioner has faced agony of criminal proceedings for the past about 2½ years. He has undergone custody for a period of more than 8 months. Perusal of custody certificate would make it evident that no other criminal case much less raising similar allegations was registered against the petitioner. The Courts

below have imposed maximum sentence of three years for offence punishable under Section 354-B IPC. Taking a cumulative view of the facts and circumstances obtaining in the present case, interest of justice would be served if substantive sentence awarded to the petitioner for offence punishable under Section 354-B IPC is reduced to simple imprisonment for a period of one and a half year. However, sentence of fine with default stipulation for the said offence and sentence awarded for offence under Section 506 IPC shall remain intact. It is, however, clarified that substantive sentence awarded for both the offences shall run currently as ordered by the Courts below.

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

(Rekha Mittal)
Judge

31.05.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No