

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

Criminal Revision No.2038 of 2017(O&M)

Date of Decision: October 25 , 2017.

Gurmeet Singh PETITIONER (s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Rahul Rathore, DAG, Punjab.

LISA GILL, J.

The petitioner challenges judgment and order dated 17.12.2016 passed by the learned Judicial Magistrate First Class, Gidderbaha whereby he has been convicted for the offence punishable under Section 354A IPC and sentenced to undergo imprisonment for eight months, besides, pay a fine of ₹500/- and in default thereof, to undergo further imprisonment for fourteen days. The petitioner also challenges judgment dated 08.05.2017 passed by the learned Sessions Judge, Sri Muktsar Sahib whereby his appeal against judgment dated 17.12.2016 passed by the learned trial court has been dismissed.

Learned counsel for the petitioner at the outset submits that challenge on the merits of the case is not raised to the impugned judgments dated 17.12.2016 and 08.05.2017. Learned counsel restricts the challenge to the

quantum of sentence imposed upon the petitioner. Notice of motion was issued in this case to the said limited extent.

Custody Certificate dated 25.10.2017 by Mr. Shivraj Singh Nandgarh, Superintendent, District Prison, Sri Muktsar Sahib indicating the period of custody of the petitioner, filed in Court today, with a copy thereof to learned counsel for the petitioner, is taken on record subject to just exceptions.

Brief facts of the case are that FIR No.129 dated 19.08.2014 was registered on the basis of statement of the complainant/victim to the effect that she was pursuing the course of ANM at village Badal. She was standing at Bus Stand Lambi on 11.08.2014 at about 7.30 a.m. when the petitioner started teasing her. He touched her inappropriately. When the complainant objected, the petitioner is stated to have used abusive language and threatened her. He fled from the spot thereafter. The complainant came back to the village and narrated the incident to her parents. An effort was made to amicably resolve the matter but the same could not be settled. The matter was thereafter reported to the police and on the basis of the complainant's statement, the FIR in question was lodged. Investigation was carried out and final report under Section 173 Cr.P.C. against the petitioner was presented. He pleaded not guilty and claimed trial. Prosecution examined six witnesses including the complainant to prove its case. The petitioner in his statement under Section 313 Cr.P.C. denied the incriminating evidence put to him and examined one witness in defence.

The learned trial court on consideration of the evidence on record, the facts and circumstances of the case held the petitioner guilty of the offence punishable under Section 354A IPC. It was observed by the learned trial court that delay in lodging of the FIR was not fatal to the prosecution version keeping

in view the fact that an effort was made at the initial stage to amicably resolve the matter. It was found that a consistent and clear stand was maintained by the complainant throughout. The complainant's testimony was found to be trustworthy. Therefore, non-examination of the Investigating Officer, ASI Parminder Kaur was held to be inconsequential. The learned trial court concluded that the prosecution succeeded in proving its case against the petitioner for the offence punishable under Section 354A IPC beyond reasonable doubt. He was sentenced accordingly as detailed above. The petitioner was however acquitted of the offence punishable under Section 506 IPC.

The petitioner being aggrieved of his conviction and sentence, preferred an appeal before the learned Sessions Judge, Sri Muktsar Sahib. The said appeal was also dismissed vide judgment dated 08.05.2017. Hence, aggrieved the present revision petition has been filed.

As noted earlier, learned counsel for the petitioner does not address arguments on the merits of the case. However, the petitioner seeks reduction of the sentence imposed upon him as he is not involved in any other case and as on date, he has undergone over five and half months of the actual sentence of eight months imposed upon him. He is not involved in any other criminal case either before or after the registration of the FIR in question. It is further submitted that the petitioner is a youngman and facing the proceedings since 2014. He is a poor person, the sole bread winner in the family having aged parents, who are totally dependant on him. Therefore, the petitioner prays for leniency in the quantum of sentence. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court in Satyaendra Dayal Khare v. State of

Maharashtra, 2005(12) SCC 485 to urge that the ends of justice would be met

in case the sentence of eight months imposed upon the petitioner be reduced to the one already undergone. Learned counsel for the petitioner also relies upon the decisions of this Court in **Dilbagh Singh @ Bagga v. State of Punjab, 2009(4) RCR(Crl.) 666** and **Parkash @ Ghamandi v. State of Haryana, 2008 (1) RCR(Crl.) 823** wherein the sentence imposed upon the said accused was reduced to that of one already undergone i.e., two and half months.

Learned counsel for the State submits that no ground whatsoever is made out for reduction of the sentence imposed upon the petitioner as both the learned courts below have held the petitioner to be guilty of the offence as charged after proper appreciation of the evidence on record. However, it is not denied that the petitioner has already undergone actual imprisonment of over five and half months and he is not involved in any other criminal case.

A perusal of the custody certificate dated 25.10.2017 filed in Court today reveals that the petitioner has undergone actual sentence of five months and 16 days as on 24.10.2017 and in case period of remissions is included, the sentence undergone is seven months and two days out of the sentence of eight months imposed upon him.

Having heard learned counsel for the parties, it is considered just and expedient to reduce the sentence imposed upon the petitioner from eight months imprisonment to the one already undergone. However, fine imposed upon the petitioner by the learned trial court as upheld by the appellate court is maintained. Fine imposed upon the petitioner stands deposited as reflected in order dated 17.12.2016 passed by the learned Judicial Magistrate First Class, Gidderbaha.

This revision petition is accordingly disposed of with the conviction of the petitioner under Section 354A IPC being upheld with the modification as above in the sentence imposed upon him. Consequently, the petitioner who is in custody be released forthwith, if not required in any other case.

October 25 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No