

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR-56-2017 (O&M)

Date of Decision: 31.10.2017

Rohit ...Petitioner

versus

State of Haryana ..Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Jagdish Manchanda, Advocate, for the petitioner.

Mr. Vikas Chopra, DAG, Haryana, for the respondent.

RAMENDRA JAIN, J.

Through this instant revision under section 401 of the Code of criminal Procedure, the petitioner has challenged the impugned judgment dated 04.10.2016 of the first appellate court dismissing the appeal of the petitioner, thereby affirming the judgment of conviction dated 08.01.2016 and order of sentence dated 11.1.2016 of the Juvenile Justice Board, Faridabad, sentencing him to undergo for a period of three years under sections 363/377 IPC and section 4 of the Protection of Children From Sexual Offence Act, 2012 (for short the “POCSO Act”) in terms of clause (11) of Rule 15 Juvenile Justice (Care and Protection of Children) Rules, 2007.

A perusal of the order dated 13.01.2017 passed by a co-ordinate Bench of this court reveals that notice of motion only on the quantum of sentence was issued. For facility of reference, order dated 13.01.2017 reads as follows:-

“ Learned counsel for the petitioner does not question the impugned judgments on merits. He prays for reduction in the quantum of sentence.

On the prayer with regard to quantum of sentence, issue notice of motion for 11.07.2017.”

Learned counsel for the petitioner prays for reduction of sentence of the petitioner to the period already undergone by him. He further prays that as of now, the petitioner has already undergone actual sentence of 01 year, 02 months and 15 days out of a total sentence of three years, which fact is not disputed by the learned State counsel. In support of his submission, learned counsel has placed reliance upon the authorities in Mahinder Kumar versus State of Haryana, 2016 (2) RCR (Criminal) 75 and Sanjay alias Kala versus State of Haryana, 2011 (2) RCR (Criminal) 899 to contend that in similar circumstances, the sentence of the accused was reduced to the period already undergone by him.

Having heard the learned counsel for the petitioner as also the learned State counsel and following the principles laid down by this court in the above referred judgments, reducing the period already undergone, this court is of the view that in identical circumstances, sentence awarded to the petitioner is liable to be reduced to the period already undergone, keeping in view the fact that the petitioner was a juvenile at the time of commission of offence; he was sentenced to be kept in protective custody for a period of three years; now he is a major; he has already undergone for a period of more than one year and no useful purpose would be served by detaining him in custody for more period.

In view of the foregoing reasons, the conviction of the

petitioner is maintained. However, the sentence of the petitioner is modified to the period already undergone by him.

With the above modification in the matter of sentence, revision stands disposed of. Petitioner is directed to be released forthwith, if he is not required in any other case.

31.10.2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether Reportable: | Yes/No |