

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

**CRA-S-547-SB-2005
Date of Decision: 16.04.2018**

Ram Chander

...Appellant

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sailender Singh, Advocate
for the appellant.

Mr. P. P. Chahar, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

Appellant-Ram Chander assailed the judgment of conviction dated 22.02.2005 and order of sentence dated 23.02.2005, passed by the Additional Sessions Judge, Panipat, whereby he was convicted for committing offence punishable under Section 354 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for a period two years and to pay a fine of ₹5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.

In brief, the facts, as per prosecution, are that L.S.N. Raju, PW-2, was a resident of Refinery Township, Panipat. He was allotted H. No. B-4011 within the campus of the refinery township. On 07.11.2003, his wife Smt. Radha Laxmi lodged a complaint with Sub Station No. 1

with regard to some electric fault in her residential premises. On the same day at about 6:30 PM, Ram Chander (appellant herein) came to the house of the complainant for rectifying the electric fault. He asked for a knife from complainant's wife. She was alone at that time and taking advantage of the same, Ram Chander attempted to rape her at the knife point. The wife of the complainant raised her voice on which her neighbours were attracted to the site of occurrence. On seeing them coming, Ram Chander ran away. Subsequently, he was apprehended from the villag and was produced before the police by the complainant. The complainant also moved an application in this regard. On the basis of his complaint Ex. PB, a formal FIR Ex. PB/2 was registered and all necessary investigation was carried out. After completion of the investigation, challan was presented. The accused was chargesheeted for committing offence punishable under Section 376 read with 511 of the IPC, to which he pleaded not guilty and claimed trial.

Both the parties led their respective evidence and after hearing both the parties and appraising the entire material and evidence on record, learned trial Court came to the conclusion that it was not a case of attempt to commit rape punishable under Section 376 read with 511 of the IPC but one under Section 354 IPC. Accordingly, the appellant was acquitted of the charges framed under Section 376 read with 511 of the IPC and was held guilty for committing offence punishable under Section 354 IPC only and was sentenced as stated above.

Counsel for the respondent-State filed custody certificate

today in Court which is taken on record.

After arguing for some time, learned counsel for the appellant-accused contended that the appellant was sentenced to undergo rigorous imprisonment for a period of 02 years and he has already undergone a period of 05 months and 19 days which is evident from the custody certificate so filed. Hence, under these circumstances, he does not want to contest the findings of the learned trial Court recorded on the merits of the case, however, prays for reduction of the sentence to the one already undergone by the appellant as the accused-appellant has already faced protracted trial.

Learned Counsel for the respondent-State contested the appeal by arguing that the appellant has rightly been convicted and sentenced by the trial Court as he outraged the modesty of the wife of the complainant, hence, his sentence should not be reduced.

I have heard learned counsel for the parties and with their assistance perused the case file.

From the custody certificate, placed on file today in the Court, it is evident that the appellant has already undergone a period of 05 months and 19 days out of the total period of sentence awarded i.e. 02 years. The case is of the year 2003. The appellant has faced protracted trial. During this period of 15 years, the appellant has undergone agony of trial. Under these circumstances, I am of the considered view that the ends of justice would be met in case the order of sentence is modified by reducing the sentence of the appellant to the one already undergone.

Accordingly, while maintaining the judgment of conviction dated 22.02.2005, the order of sentence dated 23.02.2005 is modified by reducing the same to the one already undergone by the appellant. However, the sentence of fine shall remain intact.

Disposed of, accordingly.

16.04.2018
Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No