

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

CRA-S-1575-SB-2018 (O&M)
Date of Decision: July 04, 2018

Amit @ Mittu

...Appellant

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Jai Bhagwan Sharma, Advocate
for the applicant-appellant.

Ms. Gaganpreet Kaur, AAG Haryana.

JAISHREE THAKUR, J. (Oral)

CRM-13495-2018

1. This is an application that has been preferred seeking suspension of sentence of the applicant-appellant.
2. During the course of arguments, learned counsel for the applicant-appellant does not press this application, however, requests that arguments in the main appeal may be heard, to which learned counsel for the respondent-State has no objection.
3. In view of the above, the application for suspension of sentence stands disposed of, being not pressed and the main appeal is taken up for hearing today.

CRA-S-1575-SB-2018

1. The instant criminal appeal has been filed against the judgment and order dated 18.01.2017/19.01.2017 passed by the Additional Sessions Judge, Rohtak whereby, the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay fine ₹ 5000/- under Section 354-A of Indian Penal Code and in default of payment of fine, to undergo further rigorous imprisonment for a period of one month in case FIR No.188 dated 18.05.2015, under Sections 377, 354-C, 506, 34 of Indian Penal Code and Section 6 of POCSO Act, registered at Police Station Sadar Rohtak.

2. In short, the facts of the case are that the aforesaid FIR has been registered on the application moved by complainant Guddi Devi wife of Ashok Kumar with the allegations that her son (victim child) was nine years old. She came to know that Sumit son of Rajender, Aman son of Karambir, Nitin son of Jagdish and Matri son of Kuldeep were committing sodomy with her son for the last two years and they were also threatening her son not to disclose this to anyone. When her son got seriously ill and blood started coming out from his anus, on the asking of the complainant, the victim disclosed the matter to her. The matter was immediately informed to the Police Station, Meham, but it was compromised under pressure. Thereafter, three boys namely Sandeep son of Satyawar, Vicky @ Vikash son of Ranbir and Amit @ Mittu son of Rajender started misbehaving with his daughters and when the matter was reported to their family, they also threatened the complainant.

3. On the basis of aforesaid statement, the instant case FIR was registered. The accused were arrested and statement of witnesses were recorded. On completion of investigation, challan against the accused persons was presented in court.

4. Copies of the challan and documents were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C. Thereafter, the case was committed to the Court of Sessions for trial. The accused was charge-sheet under Sections 377, 354-A, 506 of the Indian Penal Code and Section 6 of the POCSO Act, to which they pleaded not guilty and claimed trial.

5. During trial, prosecution has examined victim child as PW1, Guddi Devi, complainant as PW2, prosecutrix No.1 as PW3, Sumit Kumar as PW4, SI Rajender Singh as PW5, Lankeshwar, Criminal Ahlmad as PW6, Dr. Manoj as PW7, EASI Anand Kumar as PW8, prosecutrix No.2 as PW9, Rakesh Kumar, Clerk as PW10, Dr. Anubhav as PW11, Dr. Pardeep, Medical Officer as PW12, Ashok Kumar as PW13, HC Sudhir as PW14, SI Jaipal Singh as PW15 and thereafter, evidence of the prosecution was closed. Thereafter, statement of the accused persons were recorded under Section 313 C.P.C., in which all the incriminating circumstances appearing against them were put, but the accused persons denied the same and pleaded innocence. However, accused did not produce any witness in his defence.

6. After hearing learned counsel for both the sides, the trial court convicted and sentenced the appellant-accused herein to rigorous imprisonment for a period of six months along with fine under Section 354-A of Indian Penal Code along with co-accused Sandeep and Vikas @ Vicky

whereas, other co-accused Sumit and Vikas @ Matri were convicted and sentenced to undergo rigorous imprisonment for a period of ten years under Section 6 of POCSO Act and to further undergo rigorous imprisonment for a period of one year under Section 506 of Indian Penal Code along with fine.

7. Mr. Jai Bhagwan Sharma, learned counsel appearing on behalf of the appellant has not assailed the judgment of conviction and order of sentence, however, he prayed for reduction in the quantum of sentence to the period already undergone by him. He has relied upon judgments rendered in **Sohan Lal vs. State of Punjab, 1979 CLJ (Criminal) 113** and **Balwinder Singh vs. State of Punjab, CRR No.2574 of 2012 decided on 31.10.2012.**

8. Ms. Gaganpreet Kaur, learned AAG appearing on behalf of the respondent-State submits that out of the total sentence of 06 months, the appellant has already undergone almost 100 days.

9. I have heard learned counsel for the parties.

10. This court in the case of **Sohan Lal's case(supra)** wherein the accused was first time offender and had undergone the sentence of 3 ½ months, reduced his sentence to the period already undergone by him. Similarly, in the case of **Balwinder Singh's case (supra)**, this court reduced the sentence of the accused therein. In the case in hand, the appellant has already undergone almost 100 days, out of the total sentence of 06 months. Keeping in view the peculiar facts and circumstances of the present case, the sentence of the appellant is reduced to the period already undergone by him. However, the fine imposed upon the appellant by the trial court shall

remain intact. The appellant is ordered to be released forthwith.

11. With the aforesaid modification in the quantum of sentence, the appeal stands dismissed.

July 04, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No