

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

Crl. Revision No. 2119 of 2012 (O&M)

Date of Decision: 03.04.2018

Harbans Singh

.. Petitioner

Vs.

State of Haryana

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Jagjit Singh Gill, Advocate
for the petitioner.**

Ms. Mahima Yashpal, AAG Haryana.

**Mr. M.S. Sidhu, Advocate
for the complainant.**

ANITA CHAUDHRY, J.

Through the instant petition, the petitioner is laying challenge to the judgment of conviction and sentence passed by the Courts below.

The petitioner was tried for commission of offence punishable under Sections 354 and 452 IPC on the allegations that he entered the house of the complainant and tried to outrage the modesty of his mother and harassed them.

The learned Magistrate held him guilty under Sections 354 and 452 IPC and awarded a substantive sentence of two years and fine of Rs.2000/- under both the heads vide judgment dated 13.02.2010

The appeal filed by the petitioner was dismissed by the appellate Court vide judgment dated 10.07.2012.

Dis-satisfied with the same, instant criminal revision has been filed. The revision petition was admitted and the sentence of the petitioner was suspended on 15.11.2012.

It has been contended that the parties have arrived at a compromise. Compromise-deed (Annexure P-4) was placed on record. The report of the Court below was sought regarding genuineness of the compromise. It has been reported that the compromise effected between the parties is genuine, with free consent and without any pressure. Statements of parties have also been recorded.

The petitioner was convicted and sentenced under Sections 452 and 354 IPC, which are non-compoundable. In **Hasi Mohan Barman & Anr. Vs. State of Assam & Anr. 2008(1) RCR (Criminal) 70** and **Ishwar Singh Vs. State of Madhya Pradesh 2009(1) RCR (Criminal) 1**, the Hon'ble Supreme Court has observed that where the parties are compounding the offence, which was not compoundable the findings of acquittal cannot be recorded in favour of the accused and the permission to compound could not be ordered by ignoring the statutory provision, but the factum of compromise could be taken into consideration for reducing the sentence.

The incident pertains to the year 2007. At that time and before the amendment in Section 354 IPC, no minimum punishment was provided and maximum imprisonment for seven years has been provided for offence under Section 452 IPC. It was pointed out that the petitioner had remained in custody for little more than four months and had paid the fine amount.

The petitioner has already undergone the agony of protracted trial as well as appeal for more than 10 years. Therefore, in view of the

settlement having arrived at between both the parties, the order of conviction of the petitioner is upheld. However, the sentence awarded to him, as mentioned above, is reduced to the one already undergone by him.

With the above modification, the instant revision petition stands disposed of.

April 03, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No