

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Decided on: 16.05.2018

1. CRR No.4150 of 2016 (O&M)

Gyani Ram and another
.....Petitioners
Versus
State of Haryana
.....Respondent

2. CRR No.4163 of 2016 (O&M)

Sanjay
.....Petitioner
Versus
State of Haryana
.....Respondent

3. CRR No.493 of 2017 (O&M)

Birmati
.....Petitioner
Versus
State of Haryana and others
.....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.K. Goyat, Advocate
for the petitioners (in CRR No.4150 of 2016)
and for respondents No.2 and 3 (in CRR No.493 of 2017)

Mr. Rishab Lohan, Advocate
for the petitioner (in CRR No.4163 of 2016)
and for respondent No.4 (in CRR No.493 of 2017)

Ms. Neha Sharma, Advocate
for Mr. S.P. Arora, Advocate
for the petitioner (in CRR No.493 of 2017)
and for the complainant.
(in CRR Nos.4150 and 4163 of 2016)

Mr. Naveen Sheoran, DAG, Haryana.
(in all the revision petitions)

ARVIND SINGH SANGWAN, J.

CRM No.4443 of 2017 in CRR No.493 of 2017

Prayer in this application is for condoning delay of 04 days in filing the revision petition.

Heard.

In view of averments made in the application, the same is allowed and delay of 04 days in filing the revision petition stands condoned.

MAIN CASES

Vide this common order, I intend to dispose of 03 revision petitions i.e. CRR Nos.4150 and 4163 of 2016 and 493 of 2017, as common questions of law and facts are involved for adjudication.

Prayer in 02 criminal revision petitions i.e. CRR Nos.4150 and 4163 of 2016 is for setting-aside the judgment of conviction dated 06.08.2013 passed by the trial Court, vide which the petitioners namely Gyani Ram, Moji and Sanjay were held guilty and convicted for offence punishable under Sections 323, 325 read with Section 34 of the Indian Penal Code (in short 'IPC') and order of sentence dated 18.10.2016 passed by the Lower Appellate Court, vide which the appeal filed by the petitioners namely Gyani Ram, Moji and Sanjay was dismissed.

The criminal revision petition i.e. CRR No.493 of 2017 is filed by the injured/victim namely Birmati is for enhancement of sentence awarded to the petitioners namely Gyani Ram, Moji and Sanjay.

Vide order dated 21.11.2016, the sentence awarded to the

petitioners namely Gyani Ram and Moji was suspended.

The sentence of petitioner No.1 – Gyani Ram was suspended subject to the condition that he will deposit an amount of Rs.20,000/- in the shape of bank draft as compensation in the name of complainant – Birmati.

As per the report submitted by the trial Court, the aforesaid amount has been received by the complainant – Birmati and this fact is also not disputed by counsel appearing for the petitioner/complainant namely Birmati.

Vide order dated 07.02.2018, the petitioner – Sanjay was also directed to pay an amount of Rs.20,000/- by way of a demand draft favouring the complainant – Birmati and the said amount has also been received by her.

Counsel for the petitioner – Sanjay has submitted that out of 02 years rigorous imprisonment awarded by the trial Court, he has undergone 02 months and 03 days of actual sentence.

Similarly, counsel for the petitioners namely Gyani Ram and Moji has also submitted that petitioners No.1 and 2 (in CRR No.4150 of 2016) have also undergone sentence of 02 months and 03 days of actual sentence out of 02 years rigorous imprisonment awarded by the trial Court and they are not the previous convict. It is further submitted that petitioners No.1 and 2 have already paid the fine of Rs.500/- before the trial Court and they were on bail during pendency of the trial as well as during pendency of the first appeal preferred before the Lower Appellate Court and they have not misused the

concession of bail.

Counsel for petitioners No.1 and 2 has further submitted that the FIR pertains to the year 2008 and the petitioners are facing the agony of protracted trial for the last about 10 years and in the intervening period, they have not repeated any such offence and they have shown improvement in their characters and, therefore, the petitioners being the first offenders be released on probation.

Counsel for the petitioner/complainant namely Birmati (in CRR No.493 of 2017) assisted with counsel for the State has submitted that the petitioners namely Gyani Ram, Moji and Sanjay be put to such terms and conditions so that they may not repeat the offence in future.

After hearing counsel for the parties and considering the fact that the petitioners namely Gyani Ram, Moji and Sanjay are the first offenders and petitioner – Gyani Ram is 70 years of age at the time of filing of the appeal and petitioner – Sanjay was a student at the time of occurrence and also in view of the fact that in the intervening period i.e. for the last 10 years, there is no complaint from the side of the complainant that they have either threatened her or misused the concession of bail, all the revision petitions are disposed of with a direction to the trial Court/Illaq Magistrate/Duty Magistrate to release the petitioners namely Gyani Ram, Moji and Sanjay on probation subject to furnishing their probation bonds for a sum of Rs.50,000/- each and a bond for maintaining good behaviour for a period of 01 year.

It is made clear that in case, the petitioners namely Gyani Ram, Moji and Sanjay are found involved in any other criminal activity

or misusing the concession of probation during pendency of the probation period, the revision petitions will be deemed to be dismissed.

With the aforesaid modifications, all the revision petitions are disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

16.05.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No