

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

Criminal Revision No. 1670 of 2017 (O&M)

Date of decision : February 07, 2018

Manish @ Banke

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Abhimanyu Kalsy, Advocate for
Mr. Manoj Kumar Palwal, Advocate
for the petitioner.

Mr. Ashok K. Chaudhry, Addl. AG, Haryana.

LISA GILL, J.

The petitioner was convicted for the offence punishable under Sections 323, 324, 354D(1), 506 IPC by the learned Judicial Magistrate First Class, Hodal vide judgment dated 22.11.2016. Vide order dated 25.11.2016, he was sentenced to undergo rigorous imprisonment for two years besides pay a fine of ₹5,000/- for the offence punishable under Section 354D(1) IPC and in default thereof undergo rigorous imprisonment for one month; to undergo rigorous imprisonment for six months for the offence punishable under Sections 323, 506 IPC and also sentenced to undergo rigorous imprisonment for two years for the offence punishable under Sections 324 IPC. All the sentences are ordered to run concurrently.

Learned Additional Sessions Judge, Palwal vide judgment dated 21.03.2017 dismissed the appeal filed by the present petitioner.

Aggrieved therefrom, this petition has been filed challenging judgment and order dated 22.11.2016 and 25.11.2016 passed by the learned Judicial Magistrate First Class, Hodal as well as order dated 21.03.2017 passed by the learned Additional Sessions Judge, Palwal.

At the outset, learned counsel for the petitioner has submitted that this petition is not pressed against the conviction of the petitioner or on the merits of the case. Limited prayer was addressed for reduction of the sentence imposed upon the petitioner. It is relevant to note that notice of motion was issued in this petition limited to the said extent.

Brief facts of the case are that FIR No. 128 dated 04.08.2014 was registered against the petitioner on the statement of the complainant to the effect that the petitioner followed her to the temple, made obscene comments/remarks. When the complainant resisted, the accused sought to manhandle her and threatened her to death. In the meanwhile, the complainant called her husband on the phone, who alongwith his father rushed to the spot on the motorcycle. It is further alleged that the petitioner on seeing the complainant's husband and father-in-law attacked the complainant and her left hand was injured. The petitioner is also alleged to have attacked the complainant's husband and father-in-law, who received injuries.

On completion of investigation, final report under Section 173 Cr.P.C. was presented against the petitioner, who pleaded not guilty and claimed trial. Prosecution examined eight (8) witnesses to prove its case. The petitioner pleaded false implication and innocence.

One witness was examined in defence and certain documents as well as medico legal report of the petitioner was placed on record. It was specifically contended on behalf of the petitioner that he has been falsely implicated in this case. It was in fact the complainant alongwith her father-in-law and three others, who attacked the petitioner. It was contended that it is not possible for the complainant's father-in-law and her husband to have reached the spot so quickly after being called by the complainant.

Learned trial Court on consideration of the facts and circumstances as well as the evidence on record concluded that the prosecution successfully proved its case beyond reasonable doubt against the petitioner. Reference was made to the medical evidence in respect to the injuries suffered by the complainant, her husband as well as the father-in-law. The petitioner was, thus, convicted and sentenced as detailed above.

Learned Additional Sessions Judge, Palwal finding no merit dismissed the appeal preferred by the petitioner. As noted above, the petitioner has not challenged his conviction on merits in the present petition. Prayer for reduction of the sentence is addressed.

Learned counsel for the petitioner submits that the present petitioner is a young man and has been facing trial since the year 2014. The petitioner is not involved in any other criminal offence either before or after the present case. It is further contended that he is the sole bread earner of the family, therefore, there are adequate reasons for reducing the sentence imposed upon the petitioner.

Learned counsel for the State verifies and as is reflected in custody certificate dated 06.11.2017 attached with this file, the petitioner is not involved in any other criminal case. He has been facing criminal proceedings since the year 2014. There is nothing on record to indicate that the petitioner is not the sole bread earner of his family. In the facts and circumstances of the case, it is considered just and expedient to reduce the sentence imposed upon the petitioner.

Consequently, the conviction of the petitioner for the offences as mentioned above is maintained, however, sentence of two years imposed upon him for the offence punishable under Sections 354D (1) and 324 IPC is reduced to that of rigorous imprisonment for one year. The fine imposed upon the petitioner under Section 354D(1) IPC is enhanced from ₹5,000/- to ₹50,000/- and in default of payment of fine, to undergo rigorous imprisonment for three months. The sentence imposed upon the petitioner under Sections 323 and 506IPC is, however, maintained. All sentences to run concurrently.

Present revision petition is, accordingly, disposed of.

February 07, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No