

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 2056 of 2017 (O&M)
Date of decision : November 19, 2018

Rama Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Achin Gupta, Advocate for the petitioner
Mr. CL Pawar, Sr. DAG, Punjab for the State

Fateh Deep Singh, J. (Oral)

Revisionist Rama Singh was tried in a case bearing FIR No. 133 dated 20.11.2013, under Section 354 IPC, Police Station PS Nahianwala District Bathinda and through its judgment order dated 23.2.2016 the court of learned Judicial Magistrate Ist Class, Bathinda convicted the petitioner under Section 354 IPC and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of Rs 500/- and in default of payment of fine, to further undergo RI for two weeks. The convict aggrieved over this finding

filed an appeal against his conviction and vide judgment dated 1.5.2017, the court of learned Additional Sessions Judge, Bathinda dismissed the appeal of the convict.

Still unsatisfied the convict had come up in this criminal revision with the aid of Section 401 Cr.P.C. before this Court in this revision.

Mr. Achin Gupta, learned counsel for the petitioner revisionist at the very onset has submitted that the petitioner has been found guilty under Section 354 IPC and sentenced to undergo RI for one year and out of which he has already undergone incarceration of four months and four days, as per custody certificate placed on the record by learned State counsel. It is contended that the petitioner is suffering pangs of this prosecution since 20.11.2013 and thus for more than five years the Sword of Damocles is hanging over his head. The petitioner over this period has advanced in age and thus prayed for showing leniency by way of grant of concession of probation.

Though the learned State counsel does not disputes the fact of this long suffering by the petitioner but has opposed the grant of the concession of probation on the grounds that he had tried to outrage the modesty of a helpless woman and therefore, is not entitled to any concession.

Appreciating the submissions for more than five long years the petitioner had been suffering for this and has also undergone substantial period of incarceration and at the time of commission of offence was young and by now must have entered into middle age with family to support. It is further worth while to note here that none of the courts below in view of sentence of imprisonment so awarded had ever considered grant of concession in terms of Section 360 Cr.P.C. which is legislated for the first time offenders with a view to ensure that they are not sent behind the bars and where they may go awry from the path of rectitude and become hardened criminals. Keeping in view all the circumstances, this Court finds it to be a fit case for releasing the petitioner on probation. Accordingly, the petitioner is ordered to be released on probation of good conduct on furnishing probation bond to the satisfaction of learned trial Magistrate in the sum of Rs 10,000/- with one surety of like amount upon undertaking to appear and receive sentence whenever called upon during the period of one year and in the meantime to keep peace and be of good behaviour. The petitioner is also directed to deposit a sum of Rs 2,000/- with the trial court which shall be paid to complainant/victim by the trial court after giving due notice to her. The fine amount imposed by the courts below shall be treated as cost of the proceedings. If probation bond is not furnished

and full compliance made within two months, on receipt of copy of this order, the instant revision petition shall be deemed to have been dismissed.

With modification in sentence as aforesaid, the revision petition stands disposed of accordingly.

November 19, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No