

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

**CRR-1017-2018 (O&M)
Date of decision: 05.04.2018**

Rafiq**...Petitioner**

Versus

State of Haryana**...Respondent****CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Munfaid Khan, Advocate,
for the petitioner.

Mr. P. P. Chahar, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)**CRM-9697-2018**

This application has been moved seeking condonation of delay of 212 days in filing the accompanying revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 212 days in filing the revision petition is hereby condoned.

CRR-1017-2018

This is a revision petition instituted by Rafia son of Idrish, who was held guilty for committing offence punishable under Section 354 and 452 of the IPC, vide judgment dated 11.03.2016, passed by the Judicial Magistrate First Class, Faridabad and by order of sentence dated 14.03.2016, he was sentenced as under:

Under Section 354 IPC	To undergo rigorous imprisonment for a period of 18 months.
Under Section 452 IPC	To undergo rigorous imprisonment for a period of 18 years and to pay a fine of ₹1000/-.

Both the sentences were ordered to run concurrently.

Aggrieved, the petitioner preferred an appeal against the aforesaid judgment, however, the appeal too was dismissed by learned Additional Sessions Judge, Faridabad by order dated 08.05.2017 affirming the judgment of conviction and order of sentence passed by the trial Court.

Against the impugned judgments dated 11.03.2016 and 08.05.2017, passed by the trial Court as well as by the appellate Court, accused Rafiq has come up in this revision petition before this Court.

In brief, the facts of the case, as per prosecution, are that on 13.11.2011, a complaint, filed by Ishak son of Jaim Khan, was received at Police Post Dhauj, to the effect that on 11/12.11.2011, he was out of his house being driver on a truck and his wife and daughter, namely Sabila and Bismilah, respectively, were present at house in the night of 11/12.11.2011 and the were sleeping. At about, 1:00 O' clock at night, Rafiq son of Idrish, resident of village Teekri Khera, entered into their house and caught hold of his daughter with intention to outrage her modesty. His daughter raised alarm due to which his wife, who was sleeping with her, awoke and tried to apprehend Rafiq but accused managed to escape from there. When the complainant came back, the incident was disclosed to him by his daughter and his wife. On the basis of the said complaint, an FIR under Sections 452 and 354 of the IPC were registered and after completion of investigation, challan under Section 173 Cr.P.C. was filed.

Finding a prima-facie case against the accused, he was charge-sheeted for committing offence punishable under Section 354 and 452 of the IPC to which he did not plead guilty and claimed trial.

After hearing both the counsel for the parties and appraising the

entire evidence and material on record, the revisionist was firstly convicted by the learned trial Court and thereafter the judgment of conviction was maintained by the learned Additional Sessions Judge, Faridabad as mentioned in the earlier part of this judgment.

I have heard learned counsel for the parties and have perused the material on record.

After arguing for sometime, learned counsel for the petitioner/revisionist contended that in-fact revisionist has already undergone substantive period of his sentence. The total period of sentence awarded is 18 months. Accused-revisionist has already faced protracted trial. He does not assail the findings of the conviction recorded against the revisionist by both the Courts below in case the sentence of the revisionist is reduced to the one already undergone by him.

Mr. P. P. Chahar, DAG, Haryana, opposes this prayer while submitting that there is no infirmity in the orders so passed.

There is little scope of the High Court interfering in the revision petition filed as there is no infirmity in the orders passed. From the custody certificate, placed on file today in the Court, it is evident that the revisionist has already undergone 01 year, 01 month and 24 days inclusive of remissions. The total period of sentence awarded is 18 months. The case is of the year 2011. Revisionist has faced protracted trial. During the period of trial, the revisionist has undergone agony of trial. Under these circumstances, I am of the considered view that the ends of justice would be met in case the order of sentence is modified by reducing the sentence of revisionist to the one already undergone.

Therefore, while affirming the judgment of conviction of the

petitioner, the order of sentence dated 14.03.2016 which was affirmed by the learned Additional Sessions Judge, Faridabad, vide judgment dated 08.05.2017; is modified by reducing the same to the one already undergone by the petitioner/revisionist. However, the sentence of fine shall remain intact.

Disposed of, accordingly.

05.04.2018
Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No