

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 1119 of 2018

Date of Decision: December 03, 2018

Shayar Singh

.....Petitioner

versus

Dalip Singh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Lal Singh Sandhu, Advocate
for the petitioner

Mr. D.S. Virk, Advocate
for respondent No. 1

Mr. Deepak Grewal, DAG Haryana

Sudhir Mittal, J. (Oral)

Demand draft dated 30.11.2018 for a sum of Rs. 50,000/- in favour of Dalip Singh son of Madan Lal has been produced in the Court today. A copy thereof has been retained on record. The demand draft is handed over to counsel for respondent No. 1, who accepts the same.

2. At the instance of respondent No. 1 – Dalip Singh, FIR No. 156 dated 17.07.2008 under Section 323, 324 and 326 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') was registered against the petitioner at Police Station Ellenabad, District Sirsa. After investigation, the police presented cancellation report of the said FIR before the Judicial Magistrate Ist Class, Ellenabad, and being aggrieved with the same, respondent No. 1–complainant filed a complaint and sought to summon the petitioner and his co-accused for commission of offences under Sections 323, 324 and 326 read with Section 34 IPC. Upon that complaint, the petitioner and his co-accused were summoned by the learned trial Magistrate and tried accordingly. Ultimately vide judgment dated 31.03.2015, learned Judicial

Magistrate Ist Class, Ellenabad convicted the petitioner under Section 326 read with Section 34 IPC and his co-accused were convicted under Section 323 read with Section 34 IPC and the petitioner was sentenced to undergo RI for three years and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo SI for three months.

3. Aggrieved against the judgment of conviction and order of sentence, the petitioner preferred an appeal and vide impugned judgment dated 27.02.2018 passed by the learned Additional Sessions Judge, Sirsa, the same was dismissed. Hence, the present revision petition.

4. Notice of motion was issued as learned counsel for the petitioner prayed for reduction in the quantum of sentence on the ground that the petitioner is first offender and only single injury was sustained by the complainant.

5. Custody certificate dated 02.12.2018 prepared by Sh. Varun Sinwar, Deputy Superintendent, District Prison, Sirsa, has been filed in the Court today and the same is taken on record. According to this certificate, the petitioner has undergone actual custody of ten months and five days including remission and that there is no other criminal case pending/decided against the petitioner.

6. Learned counsel for the petitioner submits that the petitioner is a poor person and the only bread winner of the family.

7. A perusal of the record shows that the criminal complaint was instituted by respondent No. 1 on 16.09.2008 and conviction of the petitioner is of 31.03.2015, thus, the petitioner faced travails of trial of the complaint for about seven years. His appeal was dismissed by the learned Additional Sessions Judge, Sirsa on 27.02.2018 and he was ordered to be taken into custody and sent to jail for undergoing the sentence and since then he is undergoing his sentence.

8. Keeping in view that one of the objectives of the criminal jurisprudence is to reform a convict and in view of the above facts and circumstances of this case

as also the fact that the petitioner has been undergoing his sentence for the last more than ten months, I feel that the petitioner has been adequately punished and is entitled to the reduction of his sentence.

9. Accordingly, the impugned judgment of conviction dated 31.03.2015, passed by the Judicial Magistrate Ist Class, Ellenabad and as upheld by Additional Sessions Judge, Sirsa vide impugned judgment dated 27.02.2018, is maintained. So far as order of sentence is concerned, the sentence of the petitioner is reduced and he is sentenced to the period already undergone by him.

10. With the above modification in the impugned order of sentence, instant revision petition is dismissed. The petitioner be set at liberty forthwith, in case he is not required in any other case.

11. Copy of this order be sent to the Court/Successor Court of the Convicting Magistrate, concerned for compliance.

December 03, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No