

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

Criminal Revision No.4144 of 2017(O&M)

Date of Decision: February 05 , 2018.

Chander Shekhar

..... PETITIONER (s)

Versus

U.T. Chandigarh and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashish Gupta, Advocate
for the petitioner.

Mr. Parveen Chauhan, Advocate for
Mr. Gagandeep S.Wasu, APP, U.T.

Mr. Vikas Garg, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

CRM No.41850 of 2017

Annexures P1 and P2 are taken on record subject to just exceptions.
Exemption from filing certified copies thereof is granted.
Misc. application is disposed of.

CRM No.41851 of 2017

For the reasons mentioned in the application as well as the arguments addressed, the same is allowed. The complainant – Seema daughter of Tek Chand, resident of House No.2001/3, Sector 32C, Chandigarh is impleaded as respondent No.2 in this petition.

Amended memo of parties is taken on record.

CRR No.4144 of 2017(O&M)

This revision petition has been filed challenging judgment and order dated 01.10.2015 passed by the learned Judicial Magistrate First Class, Chandigarh as well as judgment dated 28.08.2017 passed by the learned Additional Sessions Judge, Chandigarh. The petitioner has been convicted by the learned trial court for the offences punishable under Sections 354/323/506 IPC. By a separate order of even date, the petitioner has been sentenced as under:-

Offence u/s	Sentence
354 IPC	Rigorous imprisonment for two years, besides, pay a fine of ₹500/- and in default thereof, undergo further rigorous imprisonment for seven days
323 IPC	Rigorous imprisonment for six months, besides, pay a fine of ₹500/- and in default thereof, undergo further rigorous imprisonment for seven days
506 IPC	Rigorous imprisonment for one year, besides, pay a fine of ₹500/- and in default thereof, undergo further rigorous imprisonment for seven days

All the sentences are ordered to run concurrently. Appeal filed by the petitioner was dismissed on 28.08.2017 by the learned Additional Sessions Judge, Chandigarh.

Notice of motion in this case was issued limited to the question of quantum of sentence imposed upon the petitioner.

Brief facts of the case are that FIR No.18 dated 09.01.2013 was registered on the basis of a statement of PW1 the complainant/respondent No.2 to the effect that at about 9.45 p.m. on 09.01.2013, the petitioner was passing by the complainant's house. He was under the influence of some intoxicant. He hit a cooler with his hand and kicked the scooter parked nearby. When questioned about the same by the complainant, he started misbehaving with her, caught hold

of her hands, slapped her on the face as well as punched her. The petitioner also threatened to kill her. The complainant suffered injuries on her face and head. PW1, the complainant stated that she knew the petitioner since her birth as he is her neighbour. On the basis of the complainant's statement, the abovesaid FIR was registered. The petitioner was arrested on the intervening night of 9/10 January, 2013. The complainant received treatment at the Government Hospital, Sector 32, Chandigarh. Investigation was carried out and final report under Section 173 Cr.P.C. against the petitioner was presented. He pleaded not guilty and claimed trial.

Prosecution examined three witnesses including the complainant to prove its case. PW2 SI Devi Dayal proved the Medico Legal Report (Ex.PW2/D) and summary (Ex.PW2/E) as well as the CT Scan report (Ex.PW2/F) of the victim. The petitioner in his statement under Section 313 Cr.P.C. denied the incriminating evidence put to him. No evidence was led in defence.

The learned trial court on considering the entire facts, circumstances of the case and evidence on record, concluded that the prosecution has proved its case beyond reasonable doubt, thereby convicting the petitioner for the offences punishable under Sections 323/354/506 IPC and sentenced him as detailed above. The appeal preferred by the petitioner was dismissed by the learned Additional Sessions Judge, Chandigarh on 28.08.2017. Aggrieved therefrom, the present revision petition has been filed.

As noted earlier, learned counsel for the petitioner does not challenge the conviction of the petitioner and limits his prayer for reduction of the quantum of sentence imposed upon the petitioner.

It is submitted that during the pendency of this revision petition, the

matter has been amicably resolved between the parties. They are both residents of the same locality and wish to live in peace and harmony. The compromise between the parties is attached as Annexure P2 with this petition and affidavit of the complainant/respondent No.2 is attached as Annexure P1. The petitioner, it is submitted, is not involved in any other case and as on date, he has undergone more than five months of the actual sentence imposed upon him. He is not involved in any other criminal case either before or after the registration of the FIR in question. The petitioner, it is submitted, is a first offender and has a family to look after. Therefore, the petitioner prays for leniency in the quantum of sentence. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court in **Satyaendra Dayal Khare v. State of Maharashtra, 2005(12) SCC 485** to urge that the ends of justice would be met in case the sentence of two years imposed upon the petitioner be reduced to the one already undergone. Learned counsel for the petitioner also relies upon the decisions of this Court in **Dilbagh Singh @ Bagga v. State of Punjab, 2009(4) RCR(Crl.) 666** and **Parkash @ Ghamandi v. State of Haryana, 2008(1) RCR(Crl.) 823** wherein the sentence imposed upon the said accused was reduced to that of one already undergone i.e., two and half months.

Learned counsel for the complainant affirms and verifies the factum of the compromise between the parties. It is submitted that the complainant has no objection in case the sentence imposed upon the petitioner is reduced as prayed for.

Custody Certificate dated 18.01.2018 verified by Mr. Amandeep Singh, CPS, Deputy Superintendent, Model Jail, Chandigarh indicating the period

of custody of the petitioner, filed in Court today, with a copy thereof to learned counsel for the petitioner, is taken on record subject to just exceptions.

A perusal of the custody certificate dated 18.01.2018 filed in Court today reveals that the petitioner has undergone actual sentence of four months and twenty nine days as on 18.01.2018 and in case period of remission is included, the total sentence undergone is six months and fifteen days out of the sentence of two years imposed upon him. Learned counsel for Union Territory, Chandigarh verifies that the petitioner is not involved in any other criminal case either before or after the present matter. It is noted that FIR in this case is dated 09.01.2013 i.e. prior to the amendment in Section 354 IPC, whereby minimum punishment was not prescribed.

Keeping in view the facts and circumstances of the case, conviction of the petitioner for the offences punishable under Sections 354/323/506 IPC is upheld. However, it is considered just and expedient to reduce the sentence imposed upon the petitioner from two years rigorous imprisonment to the one already undergone. However, fine imposed upon the petitioner by the learned trial court is enhanced to ₹5,000/- from ₹500/- under Section 354 IPC and to ₹2,500/- each instead of ₹500/- under Sections 323/506 IPC. The imprisonment in default thereof is maintained.

With the said modification in the sentence, this revision petition is dismissed.

February 05 , 2018.
'om'

(LISA GILL)
JUDGE

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