

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

CRR No.1734 of 2018 (O&M)
Date of Decision: July 05, 2018

Walaiti Ram Bhatra

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. C.S. Rana, Advocate
for the applicant-petitioner.

Mr. V.G. Jauhar, Senior DAG Punjab.

JAISHREE THAKUR, J. (Oral)

1. The instant criminal revision has been filed against the judgment dated 04.04.2018 passed by the Additional Sessions Judge, Ludhiana and judgment dated 02.02.2017 passed by Judicial Magistrate Ist Class, Ludhiana in FIR No.117 dated 01.07.2014, under Section 354 of Indian Penal Code, registered at Police Station Daba, Ludhiana.

2. In short, the facts of the case are that the aforesaid FIR has been registered on the statement of complainant Bhanmati, mother of the victim namely Pooja @ Bittan that she was a tenant in the house of one Kirna for the past one year. On 28.06.2014, her husband had gone to drop her elder daughter Aarti to her village and she was in her house along with her younger daughter Pooja @ Bittan (victim), who was aged 13-14 years.

Pooja was dumb and could not speak. At about 8.00 a.m., the complainant left for her work place namely Avon Cycle, Dhandari Kalan, Ludhiana. Her daughter Pooja was doing cleaning work at the roof. At that time, the landlady of the complainant namely Kirna along with her mother, sister and daughter was doing household work in their house. Suddenly, Walaiti Ram (accused) who was living in the neighbourhood scaled the wall of the house of the complainant and came to the roof where Pooja was doing work. The accused started doing obscene acts with Pooja and gave a bite on the lips of Pooja, due to which Pooja raised hue and cry. The accused got scared and ran away from the spot. Pooja narrated the entire incident to the complainant with the help of sign language as she is dumb.

3. On the basis of aforesaid statement, the instant case FIR was registered. The accused were arrested and statement of witnesses were recorded. On completion of investigation, challan against the accused persons was presented in court.

4. Copies of the challan and documents were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C. Thereafter, the case was committed to the Court of Sessions for trial. The accused was charge-sheet under Section 354 of the Indian Penal Code, to which he pleaded not guilty and claimed trial.

5. During trial, prosecution has examined Bhanmati, complainant as PW1, Ram Niwas, Eye-witness as PW2, Kirna, Eye-witness as PW3, HC Narayan Singh, Investigating Officer as PW4, SI Mahinder Singh, Investigating Officer as PW5 and thereafter, evidence of the prosecution was closed. Thereafter, statement of the accused was recorded under

Section 313 C.P.C., in which all the incriminating circumstances against him were put, but the accused denied the same and pleaded innocence. The accused produced DW1 Sheeshpal in his defence.

6. After hearing learned counsel for both the sides, the trial court convicted and sentenced the petitioner-accused herein under Section 354 of Indian Penal Code for a period of one year and to pay fine of ₹ 1000/-. Thereafter, the accused preferred an appeal before the Additional Sessions Judge, Ludhiana, which came to be dismissed by the judgment dated 04.04.2018, however, sentence of imprisonment imposed by the trial court was reduced from rigorous imprisonment of one year to rigorous imprisonment for nine months.

7. Mr. C.S. Rana, learned counsel appearing on behalf of the petitioner has not assailed the judgment of conviction and order of sentence, however, he prayed for reduction in the quantum of sentence to the period already undergone by him. He has relied upon judgments rendered in **Sohan Lal vs. State of Punjab, 1979 CLJ (Criminal) 113** and **Balwinder Singh vs. State of Punjab, CRR No.2574 of 2012 decided on 31.10.2012.**

8. Mr. V.G. Jauhar, learned Senior DAG appearing on behalf of the respondent-State submits that out of the total sentence of 09 months, the petitioner has already undergone a sentence of 03 months and 28 days

9. I have heard learned counsel for the parties.

10. This court in **Sohan Lal's case(supra)** wherein the accused was first time offender and had undergone the sentence of 3 ½ months, reduced his sentence to the period already undergone by him. Similarly, in the case of **Balwinder Singh's case (supra)**, this court reduced the sentence

of the accused therein. In the case in hand, the petitioner has already undergone 03 months and 28 days, out of the total sentence of 09 months. Keeping in view the peculiar facts and circumstances of the present case, the sentence of the petitioner is reduced to the period already undergone by him. However, the fine imposed upon the petitioner by the trial court shall remain intact. The petitioner is ordered to be released forthwith.

11. With the aforesaid modification in the quantum of sentence, the criminal revision stands dismissed.

July 05, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No