

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-S-2767-SB-2010 (O&M)

Date of Decision:02.07.2019

Harish Chander

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Arun Takhi, Advocate,
for the appellant.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Manjeet Kaur, Advocate for
Mr. Chander Shekhar Singhal, Advocate,
for the complainant.

HARI PAL VERMA, J.(Oral)

CRM-13262-2019

Prayer in this application filed under Section 482 Cr.P.C. is for exemption from filing certified copy as well as true typed copy of the compromise dated 16.03.2019 (Annexure P-1).

Application is allowed, as prayed for.

CRM-13271-2019

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record copy of compromise dated 16.03.2019 (Annexure P-1).

Application is allowed, as prayed for. The copy of compromise dated 16.03.2019 (Annexure P-1) is taken on record, subject to all just exceptions.

CRM-13272-2019

Prayer in this application filed under Section 482 Cr.P.C. is for fixing actual date of hearing in the appeal.

Application is allowed, as prayed for and the main appeal is taken up on Board for final disposal.

CRA-S-2767-SB-2010

Appellant has filed the present appeal against the judgment dated 19.10.2010 passed by learned Sessions Judge, Hoshiarpur, whereby in FIR No.13 dated 04.02.2009 under Sections 376/511, 342, 120-B IPC, registered at Police Station City, Hoshiarpur, he was convicted for the offence punishable under Section 354 IPC and vide separate order of even date, he was sentenced to undergo rigorous imprisonment for a period of one year, to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months.

As per prosecution, the allegation against the appellant is that on 04.02.2009 at about 12.40 PM, when the prosecutrix and the proprietor of the shop were sitting in the shop, Surinder Singh was also sitting in the shop. During this time, appellant-Harish Kumar alias Honey son of Kiran Bala came inside the shop and asked the prosecutrix to go inside the shop and switch on the TV. However, when the prosecutrix went inside to switch on the TV, Kiran Bala and Surinder Singh went outside the room and appellant-accused bolted the door from inside. He caught hold of the prosecutrix from her arm and gave her teeth bites on her face and cheeks and further pulled her breast. He threw her on sofa, broke the string of her salwar and tried to forcibly rape her. However, when the prosecutrix raised hue and cry to save her, which attracted Krishan Lal their neighbour, Vishal

and Partap Singh, broke open the door and saved the prosecutrix from appellant-accused. The accused tried to run away, but the people apprehended him on the spot and he was given beatings.

Learned counsel for the appellant states that in view of the compromise-deed dated 16.03.2019 (Annexure P-1) so arrived at between the parties, the sentence awarded to the appellant may be reduced to the period already undergone by him. He has contended that the appellant is not a previous convict. He is suffering the agony of criminal proceedings since 04.02.2009 i.e. the date when the FIR in question was registered against him.

On the other hand, learned State counsel has argued that the appellant does not deserve any interference in the present appeal. He states that as against the awarded sentence of 01 year, the appellant remained in custody for about 01 month.

Heard learned counsel for the parties.

On perusal of the judgment passed by learned trial Court, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the appellant guilty for commission of offence under Section 354 IPC. There is no illegality or perversity in the findings given by learned trial Court which may warrant interference of this Court. Even otherwise, learned counsel for the appellant has not assailed the judgment of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the appellant is, therefore, affirmed.

However, considering the fact that the matter has been amicably settled vide compromise-deed dated 16.03.2019 (Annexure P-1)

and taking into account the protracted trial, antecedents of the appellant, coupled with the fact that as against the awarded sentence of 01 year, he has already suffered incarceration for a period of 01 month, this Court feels that ends of justice would be met if the sentence awarded to the appellant is reduced to the period already undergone by him.

Ordered accordingly.

With the aforesaid modification in the order of sentence, present appeal stands dismissed.

July 02, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No