

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 1013 of 2007 (O&M)
Date of decision : May 08, 2019

Subhash

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Gurveer Sidhu, Advocate, as Amicus Curiae
for the petitioner

Mr. Ripu Daman Singh, AAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

Revisionist Subhash was tried in a case bearing FIR No. 6 dated 6.1.1999, under Section 354 IPC, Police Station Sadar, Thanesar and through its judgment order dated 14.8.2004 the court of learned Judicial Magistrate Ist Class, Kurukshetra convicted the petitioner under Section 354 IPC and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs 3000/- and in default of payment of fine, to further undergo SI for three

months. The convict aggrieved over this finding filed an appeal against his conviction and vide judgment dated 29.5.2007 the court of learned Additional Sessions Judge, Fast Track Court, Kurukshetra dismissed the appeal of the convict.

Still unsatisfied the convict had come up in this criminal revision with the aid of Section 401 Cr.P.C. before this Court in this revision.

Mr. Gurveer Sidhu, Advocate, Amicus Curiae, for the petitioner revisionist at the very onset has submitted that the petitioner has been found guilty under Section 354 IPC and sentenced to undergo maximum RI for two years and out of which he has already undergone incarceration of three months and 15 days. It is contended that the petitioner is suffering pangs of this prosecution since 6.1.1999 and thus for more than 20 years the Sword of Damocles is hanging over his head. The petitioner is the first time offender and thus prayed for showing leniency by way of grant of concession of probation.

Though the learned State counsel does not disputes the fact of this long suffering by the petitioner but has opposed the grant of the concession of probation on the grounds that he had tried to outrage the modesty of a helpless woman and therefore, is not

entitled to any concession.

Appreciating the submissions for more than 20 long years the petitioner had been suffering for this and has also undergone substantial period of incarceration. It is further worth while to note here that none of the courts below in view of sentence of imprisonment so awarded had ever considered grant of concession in terms of Section 360 Cr.P.C. which is legislated for the first time offenders with a view to ensure that they are not sent behind the bars and where they may go awry from the path of rectitude and become hardened criminals. Keeping in view all the circumstances, this Court finds it to be a fit case for releasing the petitioner on probation. Accordingly, the petitioner is ordered to be released on probation of good conduct on furnishing probation bond to the satisfaction of learned trial Magistrate in the sum of Rs 20,000/- with one surety of like amount upon undertaking to appear and receive sentence whenever called upon during the period of one year and in the meantime to keep peace and be of good behaviour. The fine amount imposed by the courts below shall be treated as cost of the proceedings. If probation bond is not furnished within two months, on receipt of copy of this order, the instant revision petition shall be deemed to have been dismissed.

With modification in sentence as aforesaid, the revision petition stands disposed of accordingly.

Intimation regarding passing of this order be also sent to the petitioner.

May 08, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No