

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

**CRR-1224-2008 (O&M)
Date of Decision: 30.5.2019**

Vikram Singh

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Sarvjit Singh Khurana, Advocate
for the petitioner.

Mr. M.K.Sangwan, DAG, Haryana

RAJ SHEKHAR ATTRI, J.

The petitioner has preferred the instant petition under Section 401 Cr.P.C. against the judgment dated 5.7.2008, passed by the learned Addl. Sessions Judge, Rewari, upholding the conviction of the petitioner but modifying the sentence of the petitioner to undergo six months sentence against the judgment of conviction and sentence dated 8.8.2007 passed by vide which he was convicted and sentence to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- under Section 354 IPC and in default of payment of fine to further undergo simple imprisonment for a period of 10 days.

It is a case of the prosecution that on 9.4.2003 at about 7:00 p.m., the prosecutrix along with her children was returning her home. She was then chased by the petitioner who started doing obscene acts. The

petitioner immediately caught hold of her tightly and bit on her cheek which caused injuries on her cheek.

After completion of investigation, the report under Section 173 Cr.P.C. was submitted against the petitioner.

In order to prove its case, the prosecution examined four witnesses including the doctor who medico-legally examined the prosecutrix.

After conclusion of the trial, the statement of accused under Section 313 Cr.P.. was recorded in which he denied the allegations levelled against him and pleaded his false implication.

On appreciation of evidence, the petitioner was convicted and sentenced, as stated above.

I have heard learned counsel for the parties and have gone through the record.

So far as the modesty is concerned, intention is not the sole criterion of the offence punishable under [Section 354 IPC](#), and it can be committed by a person assaulting or using criminal force to any woman, if he knows that by such act the modesty of the woman is likely to be affected. Knowledge and intention are essentially things of the mind and cannot be demonstrated like physical objects. The existence of intention or knowledge has to be culled out from various circumstances in which and upon whom the offence is alleged to have been committed. A victim of molestation and indignation is in the same position as an injured witness and her testimony should receive the same weight. In the instant case after careful consideration of the evidence, the

trial court and the High Court have found the accused guilty under [Section 354](#) IPC.

In the case in hand, it is specifically stated that when the prosecutrix was going on public road, she was forcibly caught hold tightly in the presence of her children and then the petitioner had given bite on her cheek. This fact is corroborated by the medical evidence.

After going through the material available on record, this Court is of the view that the prosecution evidence is reliable and conviction is based upon proper appreciation of evidence.

Learned counsel for the petitioner has submitted that the petitioner does not deserve the conviction. Rather he prays that he is a facing agony of the trial for the last more than 16 years and he be given the benefit of probation.

I have considered this contention but of the view that the petitioner is not entitled to probation. He had caught hold the hapless lady on the public way in the presence of her children and had given bite on her cheek.

On a bare perusal of the record, it transpires that the conviction is well founded. However, the petitioner is suffering the agony of protracted trial/proceedings for the last 13 years. This Court is of the view that the ends of justice would adequately meted out in case the sentence be reduced to the term already undergone by him. The custody certificate, produced by the State, transpires that he has already undergone 02 months and 12 days of actual sentence as on 12.9.2008.

To the mind of this Court, no ground is made out to set aside

the conviction, therefore, his conviction stands upheld and his sentence is reduced to the period already undergone by him.

Thus, the instant petition stands disposed of by altering the sentence for a period of 02 months and 12 days which the petitioner has already undergone.

May 30, 2019

Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>