

101.

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

CRR-1520-2008

Date of decision: 10.09.2019

CHANDER

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rajinder Kumar, Advocate, for
Mr.M.S. Tewatia, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Petitioner-accused has filed the present criminal revision against the judgment dated 06.05.2008 passed by learned Additional Sessions Judge, Faridabad whereby his appeal against the judgment of conviction dated 14.08.2007 and order of sentence dated 17.08.2007 passed by learned Judicial Magistrate 1st Class, Palwal, was partly allowed.

Briefly stated, an FIR No.90 dated 01.04.1999 under Sections 354, 323, 506 of IPC was registered against the petitioner at Police Station Sadar, Palwal, on the basis of complaint made by complainant Narain Singh. As per the FIR, on 20.03.1999, his wife-Shanti Devi (the prosecutrix) went to take fodder in the fields and suddenly, Chander (petitioner herein) forcibly pushed the prosecutrix to a sugarcane field and tried to rape her. When she resisted to save herself, the petitioner-accused physically assaulted her. In the course of scuffle, blood oozed from her ear and her

gold earring fell down. She raised noise and her daughter came forward to rescue her, but the petitioner misbehaved with her daughter as well.

After registration of the FIR, investigation was carried out and the statements of witnesses were recorded. The accused was arrested and produced in Court. After completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the accused free of cost. Finding a prima facie case against the petitioner, he was charge-sheeted for offences under Sections 354, 323, 506 of IPC to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 14.08.2007 convicted the petitioner for the commission of offence punishable under Sections 354, 323, 506 of IPC. Vide separate order dated 17.08.2007, learned trial Court sentenced the petitioner as under:-

Under Section	Punishment
354 IPC	Rigorous imprisonment for one year with fine of Rs.1000/- with fine of Rs.1,000/-
323 IPC	Rigorous imprisonment for six months
506	Rigorous imprisonment for three months

It was ordered that all the sentences shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the aforesaid judgment of conviction and order of sentence dated 14.08.2007 and 17.08.2007 before the Court of Session. However, vide judgment dated 06.05.2008, learned Additional Sessions Judge, Faridabad partly allowed the appeal. The petitioner-accused was acquitted of the charges framed against

him under section 506 IPC but his conviction and sentence for offences under section 323 and 354 IPC was maintained.

It is in the aforesaid circumstances, the petitioner has filed the present criminal revision.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner, but restricted his arguments on the point of quantum of sentence awarded to the petitioner. He has argued that as against the awarded sentence of one year, the petitioner has already undergone actual imprisonment for 5 months and 19 days. He has contended that the petitioner is a first time offender and is the only bread earner of his family. He is a poor person and has been suffering the agony of criminal proceedings since 01.04.1999 i.e. the date of registration of the FIR in question.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner. She has argued that the jurisdiction of revisionary court is very limited and no interference is warranted.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the appellate Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 323 and 354 IPC. There is no illegality or perversity in the findings given by the appellate Court regarding conviction of the petitioner under Section 323 and 354 IPC, which may warrant interference of this Court by invoking its

revisional jurisdiction. Even otherwise, learned counsel for the petitioner has restricted his arguments qua the quantum of sentence only. The conviction of the petitioner under Sections 323 and 354 IPC is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, the custody certificate already placed on record by learned State counsel shows that as against the awarded sentence of one year, the petitioner has already undergone imprisonment for a period of 5 months and 19 days. He has been facing the agony of criminal proceedings since 01.04.1999 i.e. the date when the FIR in question was registered against him. No other case has been pointed out against the petitioner.

Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of 5 months and 19 days, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

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

(HARI PAL VERMA)
JUDGE

10.09.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No