

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

CRR No.358 of 2008 (O&M)
Decided on:- May 08, 2019.

Jammu and others

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. D.R. Punia, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

Petitioners, namely, Jammu, Veer Singh @ Kakka and Kashmir Singh @ Bagga have filed the present criminal revision against the judgment dated 04.02.2008 passed by learned Additional Sessions Judge (Adhoc), Jalandhar whereby their appeal against the judgment of conviction and order of sentence dated 01.09.2007 passed by learned Judicial Magistrate 1st Class, Jalandhar, was dismissed.

Briefly stated, FIR No.124 dated 26.09.2003 under Sections 354, 294 and 506 IPC was registered against the petitioners at Police Station Kartarpur, District Jalandhar on the basis of statement made by complainant Banglesh wife of Mohan Lal. In her statement, she stated that on 21.09.2003 at about 06.00 A.M., she along with Kanti wife of Narinder Pal, resident of

Alampur were going towards the fields in the outskirts of village in order to answer the call of nature. When they were on their way, Jammu and Veer Singh @ Kakka (petitioners herein) came from the opposite side. Jammu embraced the complainant and Veer Singh embraced Kanti and they started pulling them towards the maize fields. They tried to escape from the clutches of Jammu and Veer Singh, who tried to molest them. On hearing their hue and cry, one Jasvir Singh son of Daram Ram came on the spot and challenged the accused on which both the accused fled away from the spot.

Thereafter, both the accused along with co-accused Kashmir Singh @ Bagga came to the house of the complainant and told her not to disclose the incident to anyone. When the complainant told them that she will lodge a complaint against them, accused Kashmir Singh started playing dirty and obscene tricks and threatened her that if she will lodge a complaint, they will defame her by saying that she along with Kanti were involved in obscene acts. Thereafter, all the accused threatened that if she will report the matter to the police, she will be done to death.

After registration of the FIR, investigation was carried out and the statements of witnesses were recorded. The accused were 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 petitioners, they were charge-sheeted under Sections 354, 294 and 506 IPC to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 01.09.2007 convicted petitioners Jammu and Veer Singh for the commission of offence punishable under Section 354 IPC. Besides this, all the three petitioners were convicted under Section 506 IPC. Vide separate order dated 01.09.2007, learned trial Court sentenced petitioners Jammu and Veer Singh to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo simple imprisonment for 30 days each for commission of offence under Section 354 IPC. Besides this, all the three petitioners were sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo simple imprisonment for 30 days each for commission of offence under Section 506 I.P.C.

It was, however, ordered that all the aforementioned sentences shall run concurrently.

Feeling aggrieved, the petitioners preferred an appeal against the aforesaid judgment of conviction and order of sentence before the Court of Session. However, vide judgment dated 04.02.2008, learned Additional Sessions Judge (Adhoc), Jalandhar dismissed the said appeal.

It is in the aforesaid circumstances, the petitioners have filed the present criminal revision.

At the outset, learned counsel for the petitioners has not challenged the conviction of the petitioners, but restricted his arguments on the point of quantum of sentence awarded to the petitioners.

He has argued that as against the awarded sentence of 1 year, the petitioners have already undergone actual imprisonment for 1 month and 9 days each. He has contended that the petitioners are poor persons, first time offenders and are the only bread earners of their respective families. They have been suffering the agony of criminal proceedings since 26.09.2003 i.e. the date of registration of the FIR in question. He has prayed that the sentence of imprisonment awarded to the petitioners be reduced to the period already undergone by them.

On the other hand, learned State counsel has not disputed the custody of the petitioners, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioners.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding petitioners Jammu and Veer Singh guilty for commission of offence under Section 354 IPC, whereas all the petitioners guilty for commission of offence under Section 506 IPC. The appellate Court has also dismissed their appeal. There is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioners, which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, it is a conceded fact that as against the awarded sentence of 1 year, the petitioners

have already undergone actual imprisonment for a period of 1 month and 9 days each. They have been facing the agony of criminal proceedings since 26.09.2003 i.e. the date when the FIR in question was registered against them. No other case has been pointed out against the petitioners.

Therefore, taking into account the protracted trial, antecedents of the petitioners coupled with the fact that they have already suffered incarceration for a period of 1 month and 9 days each, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

Ordered accordingly.

However, there will be no change in the sentence of fine imposed to the petitioners.

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

May 08, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No