

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2661-2009

Date of Decision: 11.07.2019

Radhey Shyam

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Raman Chawla, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offence punishable under Sections 452/323/506 IPC. Vide judgment and order dated 7.7.2007, learned Judicial Magistrate, Ist Class, Siwani, held the petitioner guilty for the aforesaid offences and sentenced him to undergo RI for six months and to pay a fine of Rs.500/- under Section 323 IPC; RI for one year and to pay a fine of Rs.1000/- under Section 452 IPC and RI for six months and to pay a fine of Rs.500/- under Section 506 IPC and, in default of payment of fine, to further undergo RI for two months.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Faridkot. Vide judgment dated 29.8.2009, learned Additional Sessions Judge, Bhiwani, dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the learned trial Magistrate.

Still aggrieved, the petitioner has preferred the present revision petition.

As would emerge from the facts of the case, respondent No.2-complainant, filed a complaint with the allegations that on 13.9.2000 at about 11.00 p.m., while he was sleeping inside his house and lights were on, accused-petitioner had trespassed into his house and caught hold of him, squeezed his penis and pulled his testicles, whereupon the complainant had raised an alarm. Upon hearing such alarm, Mohan Lal son of the complainant and Fakir Chand son of Ganga Lal came to the spot and they rescued the complainant from the clutches of the accused-petitioner. While leaving, the accused-petitioner had threatened to kill the complainant. The complainant remained admitted for 7/8 days in General Hospital, Bhiwani, for his treatment. The police had only initiated the proceedings under Section 107/151 Cr.P.C. against the accused, which led to the filing of the criminal complaint before the Court.

Upon the preliminary evidence led, accused-petitioner was ordered be summoned to face the trial under Sections 323/324/452/506 IPC. However, after pre-charge charge evidence, charges were framed against the accused-petitioner under Sections 452/323/506 IPC.

In evidence, the complainant got examined the PWs, who were examined in the pre-charge evidence.

Statement of accused-petitioner under Section 313 Cr.P.C. was recorded in which he pleaded not guilty and claimed trial. However, no evidence was led by the accused.

On the basis of the evidence led by the complainant, which included the eye witness account in the form of PWs-Fakir Chand and Mohan Lal, coupled with the testimony of PW2-Dr. Chander Bhan, Medical Officer, CHC, Bhuna, who medico legally examined the complainant and found three injuries on his person, the learned trial Court, found the accused-petitioner guilty for committing the offences under Section 452/323/506 IPC, and as stated above, sentenced him accordingly. The appeal filed by the petitioner was dismissed by the learned Additional Sessions Judge, Bhiwani.

At the very outset, learned counsel appearing for the petitioner, states that without disputing the findings of guilt recorded against the petitioner-accused, he confines his prayer to the quantum of sentence only. Learned counsel contends that in the instant case the alleged occurrence took place on 13.9.2000 and the criminal complaint was filed by the complainant on 21.11.2000. The petitioner has been facing the agony of protracted trial for the last 19 years. Still further, out of the total sentence of one year, the petitioner has already undergone 5 months and 07 days of actual sentence. It is, thus, submitted that taking into consideration that the substantial period of sentence has already been undergone by the accused-petitioner, the sentence imposed upon him may reduced to the period already undergone by the petitioner.

The findings recorded by the learned Courts below are based on cogent and convincing evidence and on the basis of appreciation of evidence. Therefore, in exercise of the revisional

jurisdiction, there is no scope for interference with the findings recorded by the Courts below. Hence, the conviction of the petitioner as recorded by the trial court and upheld by the appellate Court, is maintained.

Coming to the quantum of sentence, as stated above, the petitioner has already undergone 5 months 7 days of actual sentence out of the total sentence of one year. The petitioner has been facing the protracted trial for last 19 years. Thus, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining sentence.

In view of the above, while maintaining the conviction of the petitioner under Sections 452/323/506 IPC, the sentence imposed upon him is reduced to the period already undergone by him.

Disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

11.07.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No