

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

CRR No.1901 of 2011 (O&M)
Decided on:- January 31, 2019.

Krishan Kumar @ Mange Ram.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Ranvir S. Chauhan, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

HARI PAL VERMA, J.

The petitioner has filed the present criminal revision against the judgment dated 02.07.2011 passed by learned Additional Sessions Judge, Kurukshetra whereby his appeal against the judgment of conviction dated 11.11.2009 and order of sentence dated 14.11.2009 passed by learned Judicial Magistrate 1st Class, Kurukshetra, was dismissed.

Briefly stated, FIR No.48 dated 22.04.2002 under Sections 452, 354 and 506 IPC was registered against the petitioner at Police Station Jhansa, District Kurukshetra on the basis of statement made by complainant Sushila Kumari. In her statement, she stated that on 21.04.2002, she was alone at her house and all her family members had gone to attend a Satsang at 09.30 A.M. Meanwhile, the petitioner-accused came to her house. She was washing

clothes in the bathroom at that time. The petitioner-accused came in the bathroom and embraced her with bad intention and started kissing her mouth. She hit the petitioner with a Thapi (wooden bat) which she was having for washing clothes and raised voice for help. On hearing her voice, her aunt Meena Rani and uncle Satish Kumar came there and on seeing them, the petitioner fled away from the spot. However, while leaving, he threatened to kill her if she will disclose the incident to any person.

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 under Sections 452, 354 and 506 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 11.11.2009 convicted the petitioner for the commission of offence punishable under Sections 452, 354 and 506 IPC. Vide separate order dated 14.11.2009, learned trial Court sentenced the petitioner to undergo imprisonment as under:

<u>Offence</u>	<u>Sentence</u>
452 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.250/- and in default thereof, to further undergo simple imprisonment for a period of 15 days.

354 IPC Rigorous imprisonment for a period of six months.

506 IPC Rigorous imprisonment for a period of six months.

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

Feeling aggrieved, the petitioner preferred an appeal against the aforesaid judgment of conviction and order of sentence before the Court of Session. However, vide judgment dated 02.07.2011, learned Additional Sessions Judge, Kurukshetra dismissed the said appeal.

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 1 year, the petitioner has already undergone actual imprisonment for 2 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 has been suffering the agony of criminal proceedings since 22.04.2002 i.e. the date of registration of the FIR in question. Even otherwise, the matter has already been compromised between the parties and in compliance of the order dated 27.11.2018 passed by this Court, the joint statement of the petitioner as well as the complainant was recorded by learned Chief Judicial Magistrate, Kurukshetra on 18.12.2018, wherein both the parties have stated that they have voluntarily and amicably compromised their dispute without any coercion, pressure and undue influence.

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.

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 the petitioner guilty for commission of offence under Sections 452, 354 and 506 IPC. The appellate Court has also dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioner under Sections 452, 354 and 506 IPC, which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner 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 1 year, the petitioner has already undergone actual imprisonment for a period of 2 months and 19 days. He has been facing the agony of criminal proceedings since 22.04.2002 i.e. the date when the FIR in question was registered against him. No other case has been pointed out against the petitioner. Moreover, the matter has been compromised between the parties.

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 2 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.

However, there will be no change in the sentence of fine awarded to the petitioner.

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

January 31, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No