

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

465 Criminal Revision No. 322 of 2017 (O&M)
Date of Decision : 21.05.2019

Rajesh ... Petitioner

Versus

State of Haryana ...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

HARNARESH SINGH GILL,J.

The present revision petition has arisen out of the judgment of conviction dated 12.01.2017, and order of sentence dated 13.01.2017 passed by the Additional Sessions Judge, Karnal, vide which the appeal filed by the State of Haryana, challenging the judgment of acquittal dated 04.04.2014, passed by the Sub Divisional Judicial Magistrate, Assandh (Karnal), in case FIR No.107 dated 04.04.2008 under Sections 332, 353, 186, 323 and 506 of the Indian Penal Code (for short 'IPC'), registered at Police Station Assandh, was allowed. Vide the impugned judgment and order, the petitioner was convicted under Sections 332, 353 and 506 IPC and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>
332 IPC	Rigorous Imprisonment for period of one year and to pay a fine of Rs.1000/-. In default of the payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of one month.

<i>Under Section</i>	<i>Sentence</i>
353 IPC	Rigorous Imprisonment for period of one year and to pay a fine of Rs.1000/-. In default of the payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of one month.
506 IPC	Rigorous Imprisonment for period of one year and to pay a fine of Rs.500/-. In default of the payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.

Brief facts of the present case are that complainant Gagan Pandey, Additional Executive Engineer, sent a complaint dated 29.03.2008 alleging that the employees of the Electricity Department, namely, Sohan Lal-Foreman, Mamu Ram-Lineman, Oma and Krishan, Assistant Linemen (ALM) went to disconnect the electricity connection of the persons who were in the arrears of electricity bill. In the process of their official duty, petitioner-Rajesh attacked Mamu Ram-Lineman and torn off his clothes and also gave slaps to Oma-ALM. The identity card of Mamu Ram-Lineman was taken away by Rajesh-petitioner. The employees of the department tried to nab him but the petitioner succeeded in escaping from the place of occurrence. Rather while going away, he had threatened the employees to kill them. The said incident took place on 29.03.2008 at 10:30 a.m.

Charges were framed against the petitioner under Section 332, 353, 186, 323 and 506 IPC, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as six witnesses including Gagan Pandey, SDO/Additional Executive Engineer as PW-2.

After taking into consideration the evidence on record and rival contentions of the parties, the trial Court has drawn the conclusion

that there was no independent witness in the present case. Neither the MLR had been placed on record to prove the injuries on the persons of Mamu Ram and Oma nor the case property i.e. the torn off clothes of Mamu Ram were produced before the Court. However, PW-3, Head Constable, Jagbir, had stated that the torn off clothes of Mamu Ram were given to the Investigating Officer at Police Chowki on 07.04.2008. PW-2, Gagan Pandey had admitted that he had not witnessed the occurrence. Thus, the trial Court, vide judgment dated 04.04.2018 had acquitted the petitioner of the charges framed against him.

Aggrieved of the said judgment, State of Haryana preferred an appeal before the Additional Sessions Judge, Karnal. The appellate Court had relied upon the statement of PW-4, Mamu Ram, Lineman, who had given the details of occurrence and had categorically submitted that on the day of occurrence, when they were on Government duty, the petitioner had entered into a physical altercation with him, torn off his clothes and obstructed him from discharging his public duty and had also threatened to kill him. The torn off clothes were taken into custody by the police on 07.04.2008 vide recovery memo Ex.PW3/A. The Appellate Court had also relied upon the examination of second official witness, namely, Oma ALM (PW-5), who had testified to the effect that during the process of checking, the petitioner had beaten him and created obstacles in discharge of their public duty. Thus, the petitioner was convicted and sentenced by the Appellate Court, as noticed above.

Aggrieved of his conviction and sentence imposed upon him, the petitioner has preferred the present revision petition.

I have heard learned counsel for the parties and with their able

assistance, have also gone through the record of the Courts below.

Taking into consideration that the accused-petitioner had committed the offence of voluntarily obstructing the public servant from discharging his duties, which stood proved on record by way of evidence, I do not find any patent illegality or perversity in the finding of guilt recorded by the Appellate Court. It could not be pointed out that the petitioner had been indicted in the present case on account of any animosity or the complainant stood any gain by the alleged false implication of the petitioner.

In view of the above, the conviction recorded by the Appellate Court does not require any interference. Hence, the same is upheld.

At this stage, learned counsel for the petitioner limits his arguments to the quantum of sentence only.

The petitioner has already undergone 1 month and 18 days of actual sentence out of the total sentence of one year and the petitioner has been facing the agony of trial for the last about 10 years. In my opinion, no useful purpose would be served by sending the petitioner behind bars once again to undergo the remaining period of sentence. Though ordinarily, in an anti-social offence under the IPC, this Court should take a strict view of such matter, yet taking into consideration that the petitioner has not committed any such offence and has been living a disciplined life, sentence of the petitioner deserves to be reduced to the period already undergone by him. I feel that ends of justice would be suitably met, if the sentence awarded to the petitioner is reduced to the period already undergone by him subject to payment of fine of Rs.30,000/-.

Accordingly, the conviction of the petitioner under Sections

332, 353 and 506, IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him. The petitioner is directed to deposit the fine of Rs.30,000/- in the District Legal Service Authority, Karnal. It is made clear that in the event of failure to deposit the said amount, the revision petition shall stand dismissed.

With the aforesaid order, the revision petition is disposed of.

21.05.2019

pooja saini

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned?

Yes

Whether reportable?

Yes