

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

CRR No.498 of 2017 (O&M)
Decided on:- April 10, 2019.

Sukhpal Singh @ Mukhi.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Guninder Singh Brar, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present criminal revision against the judgment dated 30.01.2017 passed by learned Additional Sessions Judge, Sri Muktsar Sahib whereby his appeal against the judgment of conviction and order of sentence dated 16.07.2016 passed by learned Judicial Magistrate 1st Class, Gidderebaha, was dismissed.

Briefly stated, FIR No.35 dated 11.05.2014 under Sections 354, 354-B, 357 and 506 IPC was registered against the petitioner at Police Station Kotbhai, District Sri Muktsar Sahib on the basis of statement made by complainant Sukhpreet Kaur. In her statement, she stated that on 13.04.2014 at about 08.00A.M. when she was alone in the house, accused Sukhpal Singh

came to her house and warned her not to use objectionable language with his wife. Then he used abusive language with her and also slapped her. She raised hue and cry and in the meantime, Manjinder Singh younger brother of her husband came there and saved her from the clutches of accused. She also narrated the whole incident to her husband.

Thereafter, on 11.05.2014 the complainant and her brother-in-law as well as father-in-law were present in the house. At about 06.30 A.M., as per daily routine, she was brooming the house. Accused Sukhpal Singh came there and caught hold her arm and forcibly tried to take her to his house. He shut her mouth with his hand. After hearing hue and cry, her brother-in-law reached the spot and she narrated the whole occurrence to her family.

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 354, 354-B, 357 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 16.07.2016 convicted the petitioner for the commission of offence punishable under Section 357 IPC and acquitted him under Sections 354, 354-B and 506 IPC. Vide separate order dated 16.07.2016, learned trial Court sentenced the petitioner to undergo

imprisonment for a period of six months and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for a period of 14 days for commission of offence under Section 357 IPC.

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 30.01.2017, learned Additional Sessions Judge, Sri Muktsar Sahib 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 six months, the petitioner has already undergone actual imprisonment for 1 month and 26 days. Besides this, he has also earned remission for 4 days and in this manner, the total custody comes out as 2 months. 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 11.05.2014 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.

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 Section 357 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 Section 357 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 six months, the petitioner has already undergone imprisonment for a period of 2 months including remission. He has been facing the agony of criminal proceedings since 11.05.2014 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 2 months including remission, 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.

April 10, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No