

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1293-2019 (O&M)
Date of decision: 30.06.2021

Raghuvir Singh @ Soni

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.S. Sandhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting aside the judgment of conviction as well as the order of sentence dated 08.12.2017, vide which the petitioner was convicted for offence punishable under Section 294 of the Indian Penal Code (for short 'IPC') and Sections 67 & 67-A of Information Technology Act, 2000 (for short 'I.T. Act') and was sentenced to undergo rigorous imprisonment for a period of 01 year R.I. along with a total fine of Rs.2000/- and in default of payment of fine, the petitioner was further ordered to undergo R.I. for a period of one month.

Brief facts of the case are that complainant PW1 Amrik Singh got the FIR registered against the petitioner with the allegations that his elder sister Paramjit Kaur had gone to Australia 07 years ago and has now come back.

Petitioner Raghuvir Singh @ Soni is also resident of his village. The petitioner had made a Whatsapp group of 90 members and about one and half years ago, he added the complainant as member of the group, but he left the same. Again the complainant was added as a member of the group and on checking status of the group, the same was shown as "Pammi I Love U". Thereafter, a person having mobile No.99889-09100 changed the subject as "Pammi Australia Wali". It is further stated in the FIR that members of the group were posting obscene photos, videos and messages etc. Feeling insulted that a group is made in the name of his sister, the complaint was given.

The Investigating Officer/Inspector PW5 Davinder Singh recorded statement of sister of complainant, namely Paramjit Kaur @ Pammi, who supplied the print-outs of Whatsapp software. On first page, there was mobile number of petitioner Raghuvir Singh i.e. 872880-82187 with the status that "Pammi Na Koi Khat No Khabar" i.e. Pammi has not sent any letter or given message. On second page, it was written as "Pammi Kha Ho Tum O Humsafar" i.e. Pammi where are you, however, the petitioner has uploaded his own photo as profile photo. Upon this, the petitioner was arrested and in the investigation, he told that aforesaid mobile No.99889-09100 is of his friend Ranjit Singh, who changed the status of the group as "Pammi Australia Wali". An information was also given to Cyber Crime Office, Commissioner of Police, Ludhiana for giving details of Ranjit Singh. The petitioner was arrested and was released on regular bail. Thereafter, the investigation was completed.

After completion of the investigation, challan against the accused was presented before the trial Court. Finding a prima facie case, charges under Sections 67 & 67-A of I.T. Act and Section 294 IPC were framed against the

accused, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined complainant Amrik Singh as PW1, Ranjit Singh as PW2, Paramjit Kaur as PW3, Vicky Malhotra as PW4, S.P. Jain as PW5, Inspector Davinder Singh as PW6. Thereafter, the prosecution evidence was closed by the Court order.

After conclusion of the prosecution evidence, statement of accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The petitioner-accused denied the allegation of the prosecution and pleaded false implication. In defence, the accused did not produce any evidence.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, vide judgment of conviction and order of sentence of even date i.e. 08.12.2017, convicted and sentenced the petitioner/accused under Sections 67 & 67-A of I.T. Act and Section 294 IPC and sentenced him to undergo R.I. of one year and to pay a fine of Rs.2,000/-.

The petitioner preferred an appeal before the lower appellate Court, which was dismissed vide order 14.05.2019, but the sentence of one year R.I. awarded by the trial Court was reduced to 06 months R.I.

Learned counsel for the petitioner, at the very outset, submits that since out of total sentence of 06 months R.I. reduced by the lower appellate Court, the petitioner has already undergone 02 months and 20 days of total sentence including remission, he does not want to address arguments on merits and prays that sentence of the petitioner be reduced to the period already undergone by him.

Learned counsel for the petitioner has submitted that Ranjit Singh, from whose mobile phone, status was uploaded, did not support the prosecution version and he was declared hostile by the Public Prosecutor. Even in cross-examination, he did not support the prosecution version.

Learned counsel for the petitioner, in support of his arguments, has further submitted that the petitioner is the first offender and he is not involved in any other case. It is also submitted that it appears to be a case of one sided love and the petitioner was not aware of its consequences. It is further submitted that the petitioner is a poor person and he has faced the agony of protracted trial and the trial Court has not granted the benefit of Probation of Offenders Act, therefore, by taking a lenient view, the sentence awarded to the petitioner be reduced to the period already undergone by him.

Learned State counsel has filed the custody certificate dated 30.06.2021 in the Court today and has not disputed the fact that the petitioner has undergone total sentence of 02 months and 20 days of total sentence including remission, out of 06 months R.I. reduced by the lower appellate Court.

After hearing learned counsel for the parties, I uphold the judgment of conviction passed by the trial Court, as the same is based on appreciation of prosecution evidence, however, considering the fact that the petitioner has faced the agony of protracted trial; he has already undergone 02 months and 20 days of total sentence including remission; he is not involved in any other case, which shows that he has improved his character and has joined the mainstream of the society and has not repeated such offence and also in view of the fact that he is a poor person, the present revision petition is partly allowed and sentence

awarded to the petitioner is further reduced to the period already undergone by him i.e. 02 months and 20 days. The petitioner is directed to deposit the fine, if not deposited so far, within a period of 02 months from today.

Since the petitioner is on bail, his bail/surety bonds be discharged.

30.06.2021
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No