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

CRR-1565-2021 (O&M)
Date of decision : 01.12.2021

Deepak @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Dr. Payel Mehta, Advocate as Legal Aid Counsel,
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Challenge in the present criminal revision is to the judgment dated 10.04.2018 vide which the petitioner had been convicted under Sections 387 and 506 Part-II of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and had been sentenced to undergo rigorous imprisonment for a period of 7 years for the commission of offence punishable under Sections 387 and 506 Part-II of the IPC and had also been sentenced to pay a fine of Rs.1000/- and in default of payment of the same, to further undergo simple imprisonment for a period of two months.

Challenge is also to the judgment dated 03.07.2020, vide which the Additional Sessions Judge, Rohtak, had upheld the conviction of the

petitioner and had reduced the sentence from seven years to five years.

The present Criminal revision is filed for setting aside the abovesaid judgments and prayer is made for acquittal of the present petitioner.

The brief facts of the case are that the FIR was registered on the complaint of Dr. Arun Kumar Narula who in his complaint had averred that he was running a clinic by the name of Narula Clinic at Shantmati Chowk, Rohtak and on 08.04.2016, he received a letter through speed post vide which, a ransom of Rs.5 crores was demanded from him and threat of killing him and his employees in the Hospital was also extended in case, the said demand was not fulfilled. The said letter was purported to have been written by Kala-Kiloi and the said threatening letter was duly exhibited as Ex.PW2/B in the case file and the envelope was exhibited as Ex.PW2/C. Letter was purported to be sent from Post Office, Jodhpur. After investigation, the petitioner was found to be the culprit and the petitioner got recorded a confessional statement, which was duly exhibited as Ex.PW5/A in which, he had confessed that he had sent the aforesaid letter to the complainant through speed post and thereafter, got the place demarcated from where the petitioner had sent the letter. The police, during investigation, had filed an application for taking a specimen of handwriting of the accused for comparison of the same with the writing in the threatening letter. However, the petitioner, on 01.07.2016, made a statement that he does not want to give his specimen handwriting. Thereafter, the challan was presented and the charges were framed.

The prosecution in order to prove the guilt of the petitioner had

examined as many as 8 witnesses.

PW1-ASI Naresh had stated that he was posted as Incharge at Police Post Arya Nagar, Rohtak and had duly produced on record daily accounting sheet and had proved the same as Ex.PW1/B.

The complainant had appeared as PW2 and had reiterated the allegations levelled by him in complaint while appearing in the witness-box and had duly proved on record the threatening letter as well as the envelope.

PW5-Head Constable Gorkha Malik had stated that he was part of the investigation team and had produced on record the confessional statement of the petitioner as Ex.PW5/A and thereafter, as per the disclosure statement of the accused, place of posting of letter was also demarcated vide memo Ex.PW5/B.

PW6-Jayant, Criminal Ahlmad of the Court, had proved on record the order dated 01.07.2016 of the Court vide which the petitioner had refused to give his handwriting for comparison purposes as Ex.PW6/B.

PW7-ASI Naresh Kumar was the Investigating Officer of the case and had duly proved that the investigation was done in accordance with law.

Other witnesses have also fully proved the case of the prosecution.

The Additional Chief Judicial Magistrate, Rohtak, after considering the entire evidence, and also the fact that no defence evidence had been led by the petitioner and by relying upon the provisions of Section 114 of the Indian Evidence Act, 1872 (hereinafter to be referred as “the Act of 1872”), convicted the present petitioner under Sections 387 and 506 Part-

II of the IPC and sentenced him to undergo a maximum sentence of rigorous imprisonment for a period of seven years as has been detailed hereinabove. It was observed that the best evidence for the prosecution was to compare the admitted handwriting of the accused with the alleged handwriting of the accused/petitioner on the threatening letter Ex.PW2/B and the refusal by the petitioner to give the said specimen handwriting would call for taking adverse inference against the petitioner. Reference was also made to the order Ex.PW6/A wherein, it was noticed that the consequences of the statement of the accused shall be considered at the time of decision of the case. Learned trial Court had also noticed that there were as many as nine cases against the petitioner and the petitioner was a habitual offender and thus, deserved no leniency.

The Additional Sessions Judge, Rohtak, after considering the entire material on record, upheld the conviction of the petitioner under Sections 387 and 506 Part-II of the IPC. In para 13 of the judgment, the arguments of the learned counsel for the appellant as well as his statement dated 21.05.2020 to the effect that the petitioner did not wish to challenge the finding of conviction and only laid challenge to the finding on the quantum of sentence, was noticed by the Appellate Court. It is, thus, apparent that the petitioner had never challenged his conviction before the Appellate Court. The Appellate Court, however, on the basis of the facts and circumstances, reduced the maximum rigorous imprisonment awarded to the petitioner from seven years to five years and maintained the fine.

Learned counsel for the petitioner has submitted that both the judgments are illegal and against law and deserve to be set aside and the

present criminal revision deserves to be allowed.

It has been submitted that at any rate, there should be some leniency in awarding the sentence to the petitioner.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears on behalf of the State and has opposed the present criminal revision.

This Court has heard the learned counsel for the parties and has perused the paper book.

Learned counsel for the petitioner has not been able to dispute the fact that learned counsel for the appellant had made a statement before the Additional Sessions Judge, Rohtak on 21.05.2020 to the effect that the petitioner would not lay challenge to the finding of conviction and had only challenged the aspect of sentence and the said statement was one of the factors considered by the Additional Sessions Judge, Rohtak while reducing the sentence from seven years to five years. A perusal of the evidence and documents on record would also show that both the Courts below have rightly convicted the petitioner under Sections 387 and 506 Part-II of the IPC.

PW2-Complainant had fully proved on record the threatening letter as Ex.PW2/B and envelope as Ex.PW2/C. PW6-Jayant, Criminal Ahlmad, had proved on record the order dated 01.07.2016 as Ex.PW6/B, wherein, the petitioner had suffered a statement Ex.PW6/A to the effect that he does not want to get his handwriting compared with the handwriting on the threatening letter-Ex.PW2/B.

The Courts below have, thus, correctly invoked the provision of

Section 114 of the Act of 1872 against the petitioner. Even the confessional statement of the petitioner Ex.PW5/A has been duly proved by PW5-HC Gorkha Malik and thereafter, as per the disclosure statement, place of posting of letter had also been duly demarcated vide memo Ex.PW5/B. Other prosecution evidence had also proved the case against the petitioner and nothing in the cross-examination had come out so as to dent the case of the prosecution.

Accordingly, the conviction of the petitioner under Sections 387 and 506 Part-II of the IPC is upheld. With respect to the argument of learned counsel for the petitioner that some concession should be given as far as sentence which has been awarded to the petitioner, it would be relevant to mention that the petitioner is involved in 9 other cases, details of which are reproduced hereinabove:-

1. Case FIR No.174 dated 18.3.2016,u/s 302 of IPC, P.S Sadar, Rohtak.
2. Case FIR No.337/16 dated 18.3.2016, u/s 506 IPC, P.S City, Rohtak.
3. Case FIR no.375/16, u/s 506/387 IPC, P.S Civil Lines, Rohtak.
4. Case FIR no.410/16, u/s 386, 506 IPC, P.S Civil Lines, Rohtak.
5. Case FIR No.446/16, u/s 386/506 IPC,P.S Civil Lines, Rohtak.
6. Case FIR No.480/16, u/s 506 of IPC,P.S Civil Lines, Rohtak.
7. Case FIR No.507/16,u/s Arms Act, P.S Civil Lines Rohtak.
8. Case FIR No.624/16, u/s 385 IPC, P.S Rajori Garden, Delhi
9. Case FIR No.791/16, u/s 386, 506, 120-B IPC, P.S Civil Lines, Rohtak.

Learned counsel for the State has further submitted that in fact, there is one more case registered against the petitioner and thus, the

petitioner is involved in total 10 cases.

From the above, it is apparent that the petitioner is a habitual offender and his sentence of rigorous imprisonment for a period of seven years had already been reduced to five years by the Additional Sessions Judge, Rohtak, thus, no further concession with respect to the sentence awarded could be extended to the petitioner.

Accordingly, the present criminal revision is dismissed.

Since, the main criminal revision has been dismissed, all the pending miscellaneous applications, if any, shall also stand disposed of.

01.12.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No