

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

CRR-919-2020(O&M)

Date of decision : 14.11.2022

Sukhpreet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kamalpreet Bawa, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr.DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision Petition is to the judgment dated 15.02.2017, vide which, the Sub Divisional Judicial Magistrate, Nihal Singh Wala, had convicted and sentenced the petitioner under Section 317 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) to undergo rigorous imprisonment for a period of three years.

Challenge has also been made to the judgment dated 08.01.2020, vide which, the Additional Sessions Judge, Moga had also dismissed the appeal filed by the present petitioner and had upheld the sentence.

Learned counsel for the petitioner has submitted that he is not challenging the conviction of the petitioner but is praying for leniency as far as the sentence which had been awarded to the petitioner is concerned and

with respect to the same, it has been submitted that the incident in question is of the year 2015 and the petitioner has suffered the agony of trial/appeal/revision for all these years. It is further submitted that petitioner is 34 years of age and he has aged parents. It is further submitted that as per the custody certificate, the petitioner has already undergone actual custody of 1 year 11 months and 4 days and has also earned remission of 3 months and 10 days and thus, total sentence including remission undergone by the present petitioner is 2 years 2 months and 15 days out of the total sentence of 3 years. There are specific allegations against the present petitioner that he had asked his co-accused Veerpal Kaur to abandon the child in question. It is also contended that the child Lovedeep Singh is now being taken care of by Kirandeep Kaur and her husband namely Balwant Singh.

In support of his arguments, learned counsel for the petitioner has relied upon **CRR-1931-2010** decided on 23.07.2019 titled as **Chander Bhan Vs. State of Haryana** in which in a case where the petitioner had actually undergone sentence of 04 months and 07 days in a case under Sections 279 and 304-A IPC, this Court has suspended the sentence by imposing a fine of Rs.25,000/- and the judgment of the Hon'ble Supreme Court in **State of Punjab Vs. Saurabh Bakshi, reported as 2015 (2) RCR (Criminal), 495** was considered. Further reliance has been placed upon a judgment of this Court in **CRR-4830-2016** decided on 08.03.2017 titled as **"Balwinder Singh @ Binder Vs. State of Punjab"** in which case also, the sentence was reduced to four months in a case of conviction under Section 279/304-A IPC where rigorous imprisonment was awarded for 02 years. In the said case also, the judgment of the Hon'ble Supreme Court in Saurabh

Bakshi's case (supra) was considered. Further, reliance has also been placed upon case of **Jaswant Singh Vs. State of Punjab**, reported as **2020 (1) RCR (Criminal) 163**, in which also after taking into consideration the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra), the sentence was reduced to already undergone. Further reliance has been placed upon the judgment dated 22.07.2019 passed by the Coordinate Bench of this Court in **CRR-444-2019** titled **Sunil Kumar Vs. State of Haryana**, in which case also, the petitioner therein was convicted under Sections 279, 337, 304-A of the IPC and had undergone about 3 months of judicial custody and was released on probation in the said case.

Learned State Counsel has submitted that the judgments of both the Courts below are well reasoned and have been passed after taking into consideration the entire evidence and the material on record. However, the fact with respect to the custody of the petitioner as well as having never misused the concession of bail/suspension of sentence, has not been disputed by him.

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

As far as conviction of the petitioner under Section 317 of the IPC is concerned, both the Courts below have rightly come to the said conclusion. FIR, in the present case, was registered on the basis of the statement of complainant-Kirandeep Kaur, who got her statement recorded to the effect that her marriage was solemnized with Balwant Singh son of Late Joginder Singh 10 years ago and out of their wedlock, a son and a daughter were born and on 16.12.2015, at about 7.30 PM, unknown persons

had left/abandoned a new born child near the fields of Satpal Singh, adjoining their house and after hearing hue and cry of the said child, she rushed to the spot and found many people had gathered there and saw that the new born child was smeared with blood and was weeping and with the consent of all the persons present at the spot, she picked up the child and took him into her house, for handing him over to the authorities and on the basis of the her statement, FIR in question was registered and the new born child was handed over to the Head of DPO, Moga who had got medically examined the child from Civil Hospital, Moga and the child was sent to Shri Radha Krishna Dham, Faridkot and thereafter, the present petitioner was arrested and the blood samples of the co-accused Veerpal Kaur as well as of the new born child and Jasvir Singh, husband of the Veerpal Kaur, were obtained and on 05.01.2016, blood samples were sent to Forensic Science Laboratory, Chandigarh. Challan was presented and charges were framed.

The prosecution, in order to prove its case, had examined 7 witnesses, which are as under:-

PW-1	Dr. Sneh Lata	Medical Officer
PW-2	Kirandeep Kaur	Complainant
PW-3	Balwant Singh	Eye Witness
PW-4	SI Gurbux Singh	Investigating Officer
PW-5	Dr. Dalbir Kaur Gaba	Witness
PW-6	Dr. Arwinder Gill	Medical Officer
PW-7	Mohinder Sachdeva	Witness

Although, in the present case, PW2-Kirandeep Kaur and PW3-Balwant Singh did not support the case of the prosecution but when Veerpal Kaur was examined under Section 165 of the Indian Evidence Act, she had stated that child so recovered by the police was forcibly taken by the

petitioner from her and thereafter he had left the abandoned child and she further admitted that she had not reported the matter to any authority. The same was held to be an admission of guilt of the accused. Even the Forensic DNA report dated 04.01.2016 (Ex.12) shows that both Veerpal Kaur and her husband Jasvir Singh cannot be excluded being the biological parents of the child namely Lovedeep.

On the basis of abovesaid evidence as well as evidence of other witnesses i.e. PW1-Dr. Sneh Lata, PW4-SI Gurbux Singh, PW5-Dr. Dalbir Kaur Gaba, PW6-Dr. Arwinder Gill and PW7-Mohinder Sachdeva, both the Courts below have rightly convicted the present petitioner. The said finding is neither shown to be perverse or illegal or against law. In fact, said finding has not been challenged by the learned counsel for the petitioner. Accordingly, conviction of the petitioner under Section 317 of the IPC is upheld.

As far as sentence which has been awarded to the petitioner is concerned, this Court is of the view that keeping in view the fact that the incident in the present case is of the year 2015 and the petitioner has never misused the concession of bail/suspension of sentence granted to him and is 34 years of age and has aged parents, a view of leniency can be adopted with respect to the sentence awarded. As per the custody certificate, the petitioner has already undergone actual custody of 1 year 11 months and 4 days and has also earned remission of 3 months and 10 days and thus, total sentence including remission undergone by the petitioner is 2 years 2 months and 15 days out of total sentence of 3 years and also in view of the judgments relied upon by the learned counsel for the petitioner, it is ordered

that the sentence awarded to the petitioner, be reduced to the period already undergone by him.

The same would, however, be subject to the petitioner depositing an amount of Rs.20,000/- before the Chief Judicial Magistrate, Moga, within a period of two months from the date of the present judgment.

The Chief Judicial Magistrate, Moga, is directed to get the said payment of Rs.20,000/- deposited in the Fixed Deposit in the name of the minor child, after informing him and his legal guardian about the same and the said deposit would be released to the minor child-Lovedeep Singh after he attains majority, alongwith interest.

It is made clear that in case, the amount is not deposited within a period of two months from the date of the present judgment, the present Criminal Revision Petition would be deemed to have been dismissed.

Accordingly, the present Criminal Revision petition is disposed of in the abovesaid terms.

Pending miscellaneous application stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

November 14, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No