

CRR-1604-2022 (O&M)

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

Sr. No.224

CRR-1604-2022 (O&M)

Date of decision : 9.12.2022

Gurdev Singh

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Mohit Garg, Advocate for the petitioner

Mr.Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

1. The present revision petition has been filed challenging the judgment dated 29.04.2022, passed by the learned Additional Sessions Judge, Sangrur, dismissing the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 16.08.2018, rendered by the learned Chief Judicial Magistrate, Sangrur, vide which he had been convicted and sentenced as under:

Offence u/s	Imprisonment
186 IPC	RI for 3 months
353 IPC	RI for 1 year
506 IPC	RI for 1 year

All the sentences were ordered to run concurrently.

2. Briefly put, the prosecution case is that on 03.08.2015, when

ASI Balkar Singh alongwith other police officials were present at Ghanta Ghar Chowk during patrolling duty, one HC Subash Chand posted at Police Line, Sangur got recorded his statement before him stating therein that at about 11.40 am he was present in bakshikhana, District Court, Sangrur as guard. When he alongwith other police officials had been confining the inmates in Bakshikhana of Civil Court at Sangrur for hearing one inmate Gurdev Singh, started abusing him and when he tried to stop him, he gave fist blow and had also torn his dress. He assaulted and obstructed him in discharging his official duties and threatened to kill him. On the said statement, FIR No.207 dated 3.8.2015, under Sections 353, 186, 506 IPC was registered at Police Station City Sangrur.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused- petitioner. On finding a prima facie case, charges under the aforesaid Sections were framed against him, to which he pleaded not guilty and claimed trial.

4. The prosecution in order to bring home the guilt of the accused examined as many as 7 PWs. On closure of the prosecution evidence, statement of the accused-petitioner was recorded under Section 313 of the Cr.P.C.. He denied all the incriminating circumstances that appeared against him in the prosecution case while pleading innocence and to be implicated falsely by the police at the instance of one Gamdoor Singh as he was inimical towards him. However, he did not examine any witness in his defence.

5. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused as noticed in para 1.

6. Aggrieved petitioner, challenged the said judgment of conviction and order of sentence, by filing an appeal before the learned Additional Sessions Judge, Karnal, which was dismissed vide judgment 29.4.2022, affirming judgment of the trial Court.

7. Being dissatisfied, the accused-petitioner has preferred the present revision petition.

8. Learned counsel for the petitioner, at the very outset, gives up his challenge to his conviction, however, prays for modification of the order of his sentence awarded to the period as already undergone on account of the facts, namely; the petitioner is a poor person of 30 year age; he is the sole breadwinner of the family; he has already undergone about 5 month imprisonment out of the total substantive sentence of one year and moreover, no independent witness was joined as witness and no MLR was conducted and he has also faced agony of trial since the date of incident i.e. 3.8.2015.

9. Opposing this, the learned counsel for the State submits that the learned Courts below after appreciating every aspect of the matter have rightly convicted and sentenced the petitioner, therefore, he prays for the dismissal of the present petition.

10. Heard.

11. Though, the petitioner has given up his challenge to the conviction and has prayed for reduction of his sentence as having been undergone, in view of the mitigation circumstances as mentioned above. However, still this Court deems it appropriate to examine the judgments of the Courts below. The learned trial Court had thoroughly examined the

evidence and observed that the prosecution has proved its case beyond reasonable doubt against the petitioner on the basis of the testimony of the PW-2 HC Subhash Chand categorically stated in his statement before the Court that he was posted as guard in the Bakshikhana and on 3.8.2015, when the inmates were lodged there, the accused-petitioner started abusing him and gave fist blows. He had torn his dress. The said statement was fully corroborated by PW-1 ASI Baldev Singh and PW-6 ASI Gamdoor Singh. Learned Additional Sessions Judge in appeal filed by the petitioner had also considered all aspects of the matter and only thereafter, upheld the judgment of the conviction passed by the learned Trial Court and observed that non-examination of independent witness was not fatal to the prosecution case, when it is based on cogent and convincing evidence of the official witnesses. Accordingly, both the Courts below after having scrutinized the evidence on record have rightly convicted the petitioner and there is no scope for interference in the concurrent findings recorded by both the Courts below. As such, the conviction of the petitioner is affirmed.

12. Regarding the prayer of the learned counsel for the petitioner that in view of the aforestated mitigating circumstances, the sentence of the petitioner may be reduced to the period already undergone, it is apposite to make a reference to the judgments of Hon'ble The Supreme Court of India in the case of **Haripada Das vs. State of W.B.** (1998) 9 SCC 678, Hon'ble The Supreme Court of India has held as under:

“....considering the fact that the respondent had already undergone detention for some period and the case is pending for a pretty long time for which he had suffered both financial hardship and mental agony and also

considering the fact that he had been released on bail as far back as on 17-1-1986, we feel that the ends of justice will be met in the facts of the case if the sentence is reduced to the period already undergone....”

13. The observations as relevant to the present case, made by Hon'ble The Supreme Court in the case of **R.Soundarajan vs. Seed Inspector, Coimbatore and another**, 2006(4) RCR (Crl.) 645 read thus:-

"26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment."

14. It is settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

15. Adverting to the mitigating circumstances, as brought out by the learned counsel for the petitioner in the present case, are that the petitioner belongs to the poor strata of the society, is the sole breadwinner of the family, he has undergone a period of sentence of about 5 months, out of a total sentence of 1 year awarded to him and has faced the pangs of a prolonged trial from 03.08.2015, the date of incident. In view of the aforesaid and the judgments referred to above, the ends of justice would be

adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by him.

16. Accordingly, the conviction of the petitioner is upheld while modifying the order of sentence to the period already undergone by petitioner. However, fine shall remain intact.

17. With the aforesaid modification in the order of sentence dated 16.8.2018 , the criminal revision petition stands partly allowed.

9.12.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No