

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-2569-2019 (O&M)

Date of decision : 13.09.2022

Bishamber

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Ajit Kumar Sharma, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Mr.Anoop Kumar Yadav, Advocate for
Ms.Monika Jangra, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

Challenging in the present revision petition is to the judgment passed by the Additional Sessions Judge, Bhiwani dated 07.09.2019 whereby the judgment of conviction dated 16.08.2016 passed by the Judicial Magistrate Ist Class, Bhiwani, has been upheld. Challenge is also to the order dated 16.08.2016 vide which the present petitioner has been convicted under Sections 324, 506 IPC.

Learned counsel for the petitioner has submitted that during the pendency of the present revision petition, a compromise has been effected before the Mediation Centre and as per the settlement/ agreement, the petitioner has prayed that his sentence be reduced to the period already undergone and thus, he is not challenging his conviction under Sections 324

Learned counsel appearing for the complainant has reiterated the fact that the matter has been compromised and has no objection in case, the sentence awarded to the present petitioner is reduced to the period already undergone.

Brief facts of the present case are that the complainant Anita, wife of the present petitioner Bishamber, had filed a complaint on the basis of which the FIR in question was registered on the allegation that she had come to the Court to pursue her case under Section 125 Cr.P.C. for maintenance and after being relieved from the court proceedings, she along with her brother, reached the Rohtak Gate at Bhiwani and was waiting for the bus, when, petitioner arrived on the spot and attacked her with a knife and inflicted injuries on her stomach and then, fled from the spot. After the investigation was completed, the challan under Section 324 and 506 IPC was prepared and presented in the Court.

The prosecution examined six witnesses. PW-1 Brij Bala (L/SI) had deposed regarding the FIR. PW-2 Anita, who is the complainant, had proved the incident and manner in which the petitioner caused injury to her. PW-4 Dr.Kulwant Phogat had proved on record the MLR which was exhibited as PW4/B and ruqa Ex.PW4/C. PW-3 ASI Janak Raj was the Investigating Officer and he proved on record site plan Ex.PW3/B and also deposed about the recovery of knife from the petitioner vide memo Ex.PW3/C. PW Manjeet who is the brother of the complainant, PW-5 Vijender, Record Keeper, PW-6 Head Constable Manoj Kumar were the other witnesses, who fully proved the case of the prosecution. The said witnesses were cross-examined but no infirmity was pointed out in their evidence. The trial Court after considering the entire evidence and

documents, vide judgment dated 16.08.2016, convicted the petitioner under Sections 324 and 506 IPC and had sentenced him as under:-

<i>Convicted u/s</i>	<i>Name of the convict</i>	<i>Sentence Awarded</i>
324 of Indian Penal Code	Bishamber	Rigorous imprisonment for two years and fine of Rs.5,000/- in default simple imprisonment for two months.
506 of Indian Penal Code	Bishamber	Rigorous imprisonment for one year and fine of Rs.3,000/- in default simple imprisonment for one month.

The petitioner filed an appeal and the Additional Sessions Judge, Bhiwani, after reconsidering the entire matter and the evidence on record, upheld the conviction by modifying the order of sentence to the extent that the petitioner had been ordered to undergo rigorous imprisonment for a period of 6 months under Section 324 IPC and rigorous imprisonment for a period of 3 months under Section 506 IPC and both the sentences were ordered to run concurrently. It is stated that fine imposed upon the petitioner has already been deposited by the petitioner.

Learned State counsel has submitted that both the courts below after taken into consideration the entire evidence, have rightly convicted the present petitioner under Sections 324 and 506 IPC and thus, the said judgments do not call any interference.

This Court has considered the evidence on record and find that the judgments of the courts below on the aspect of conviction of the present petitioner under Sections 324 and 506 IPC are legal and in accordance with law and deserve to be upheld. No infirmity, perversity or illegality has been found in the same. Learned counsel for the petitioner has submitted that he would not be challenging the conviction of the petitioner and accordingly,

as far as the conviction of the petitioner is concerned, the same is upheld.

It is the common case of the petitioner as well as the complainant that the matter was referred to the Mediation and Conciliation Centre of this Court and in pursuance of the same, settlement dated 05.07.2022 has been arrived at and the same has been placed on record. The relevant portion of the said agreement is reproduced hereinbelow:-

*“MEDIATION AND CONCILIATION CENTRE OF PUNJAB AND
HARYANA HIGH COURT, CHANDIGARH*

Mediation Case No.147 of 2020

Re: CRR-2569 of 2019

Bishamber Vs. State of Haryana

Present: Both the parties.

SETTLEMENT AGREEMENT

This SETTLEMENT/AGREEMENT is entered into between

*Bishamber aged 45 years s/o Matu Ram r/o village Kairu, Tehsil Tohsam,
District Bhiwani.*

... First Party

AND

Anita d/o Daya Nand r/o Village Dagroli, Bhiwani, Haryana.

...Second Party

on this 05th day of July, 2022.

xxx xxx xxx

*8. The following settlement has been arrived at between the Parties
hereto:*

*a) That both the parties have agreed to part ways amicably. The
first party has already procured a ex parte divorce against the
second party which is not contested by the second party.*

*b) That the parties have agreed to settle the disputes and the first
party is handing over today two drafts No.243263 dated
02.07.2022 and draft No.243262 dated 02.07.2022 drawn on Sarva
Haryana Gramin Bank, Kairu, Bhiwani amounting to Rs.2 lacs
each to the second party.*

*c) After acceptance of this amount of Rs.4 lacs as mentioned
above, the second party has accepted this amount as full and final
settlement on account of alimony in lieu of the maintenance*

awarded to her.

d) That after the acceptance of this amount the second party undertakes to withdraw the proceedings under Section 125 CrPC pending before the Courts and also other proceedings like execution pending before the Courts.

e) The second party being a complainant will have no objections in case the proceedings under FIR No.544 dated 24.08.2012 is quashed or in the alternate the sentence is reduced to that of already undergone.)

A perusal of the above agreement would show that both the parties have decided to part ways and the other terms have also been settled and further, the complainant has stated that she has no objection in case the proceedings under the FIR are quashed or in the alternate, the sentence is reduced to that of already undergone. It is the common case of both the petitioner and the complainant that sentence awarded to the present petitioner be reduced to the period already undergone. Learned State counsel has produced on record the custody certificate as per which the actual custody undergone by the petitioner is 2 months and 20 days out of sentence of 6 months. The matter has been compromised. The FIR is of the year 2012 and the petitioner has suffered the agony of trial, revision and appeal for the last more than 10 years and has never misused the concession of bail / parole during the said period. The dispute between the petitioner and the complainant is a matrimonial dispute and the same has finally been resolved. The judgments of co-ordinate Benches of this Court in **CRR-1244-2013** decided on 14.01.2019 titled “**Anju @ Naresh and another Vs. State of Haryana**” as well as the judgment of coordinate Bench of this Court dated 08.03.2010 passed in **CRR-1859-2008** titled “**Gaya Prashad Vs. State of Haryana**” would also support the arguments of learned counsel for the petitioner and the complainant.

Keeping in view the above said facts and circumstances moreso, the factum with respect to the compromise between the petitioner and the complainant, the present revision petition is disposed of with the modification / observation to the effect that the sentence awarded to the petitioner is modified to the extent the period already undergone.

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

(VIKAS BAHL)
JUDGE

September 13, 2022
Davinder Kumar

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