

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

225

CRR No.2048 of 2012

Date of Decision:23.03.2023.

Mahender Singh

.....Petitioner

Versus

State of Haryana

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWALPresent: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Surender Singh, A.A.G., Haryana.

VIKRAM AGGARWAL, J. (ORAL)

The present revision petition assails the judgment dated 13.06.2012, passed by the Additional Sessions Judge, Fatehabad, vide which the appeal filed by the petitioner against the judgment of conviction dated 25.05.2009 and order of sentence dated 26.05.2009 passed by the Judicial Magistrate First Class, Fatehabad, vide which the petitioner was convicted under Section 323, 324, 326 of the Indian Penal Code, 1860 along with fine also imposed was dismissed.

At the outset, the learned counsel for the petitioner submits that the petitioner does not challenge the judgment of the Courts below on merits. It has been submitted that the petitioner has undergone custody of more than three months. It has further been contended that the FIR was registered in the year 2004, the judgment of the trial Court was passed in 2009 and that of the First Appellate Court was passed in 2012. It has been contended that the petitioner has been suffering the agony of trial for the last almost 19 years. A prayer has been made for modification in the sentence to the period already undergone by the petitioner.

Learned counsel representing the State of Haryana, however opposed the prayer stating that an injury was caused to the complainant on the right elbow, right ear and on the waist. However, as per the custody certificate placed on record today, the actual undergone period of the appellant is 03 months and 07 days.

I have considered the submissions made by learned counsel for the parties.

I have gone through the judgments passed by the trial Court as also the First Appellate Court. The prosecution had examined seven witnesses to prove its case against the accused (petitioner hearing). Both the courts considered the evidence led by the prosecution in detail and thereafter, convicted the accused. I do not find any reason to, even otherwise, interfere in the well reasoned judgments passed by both the Courts.

Coming to the prayer made by learned counsel for the petitioner, it is to be noticed that the FIR in question was registered on 22.01.2004. The petitioner faced trial for more than 05 years and eventually judgment of conviction was passed by the trial Court on 25.05.2009. He challenged the same in appeal which also came to be dismissed, vide judgment dated 13.06.2012. The petitioner is stated to be 53 years old now and has suffered the agony of a protracted trial and has spent practically the whole of his youth in the same. This much period would be more than the actual punishment which the petitioner may have undergone and would have been free long back. No doubt, it is the petitioner who had been challenging the judgments but at the same time, the fact that cannot be lost sight of is that even the present revision petition has been pending before this Court for the last 11 years. It cannot be denied that the wait has been agonizing for the petitioner.

Keeping in view the totality of the facts and circumstances, I deem it

appropriate to modify the sentence of imprisonment to the period already undergone by the petitioner i.e., 03 months and 07 days (as per the custody

certificate filed in the Court today by the State of Haryana). The judgment of conviction is however not liable to be interfered with and the same is upheld. Further there would be no modification in the sentence of fine and the same would be payable/recoverable from the petitioner as per law. In addition to the same, the petitioner would be liable to pay a compensation of ₹ 25,000/- to the complainant within a period of two months from today. The same be deposited before the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, which shall be paid to the complainant against proper receipt and identification. A copy of this judgment be sent to the concerned trial Court and the Chief Judicial Magistrate, Fatehabad, for necessary action.

With the aforesaid modification, the present revision petition is disposed of.

March 23rd, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

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