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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-300-2023 (O&M)

Date of decision: 14.08.2024

SANDEEP SHARMA

...PETITIONER

V/S

UNION TERRITORY, CHANDIGARH

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashwani Verma, Advocate
for the petitioner.

Mr. Abhinav Gupta, Addl. PP UT Chandigarh.

HARPREET SINGH BRAR J. (ORAL)

1.

Present revision petition has been preferred against the judgment dated 17.01.2023 passed by learned Additional Sessions Judge, Chandigarh upholding the judgment of conviction and order of quantum of sentence dated 27.02.2018 passed by learned Judicial Magistrate Ist Class, Chandigarh in case FIR No. 153 dated 28.08.2016 registered at Police Station Mauli Jagran, Chandigarh, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Sandeep Sharma	354-A of Indian Penal Code	Rigorous imprisonment for six months	Rs. 500/- and in default of payment of fine, further awarded simple imprisonment for 10 days

2.

Brief facts of the case of the prosecution are that on 28.08.2016 SI Gurwinder Singh along with other police officials was on patrolling and when he was near Vikas Nagar, complainant Pooja handed over a complaint against Sandeep (petitioner herein), regarding harassment and it was alleged that the

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petitioner used to stop her in the way while she was going to place of work. One day he forcibly pulled her hand and when she raised alarm, then he ran away from the spot. He also used to threaten her with dire consequences. Upon the said complaint, FIR(supra) was registered against the petitioner. During investigation, accused-petitioner was arrested. Statement of the witnesses were recorded. On completion of investigation challan was prepared and was presented in court.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 27.02.2018 on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 17 days.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellant Court and as such, he does not deserve any leniency. Moreover, the petitioner is also involved in number of other cases.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. In **Deo Narain Mandal v. State State of UP (2004) 7 SCC 257**, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a



discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

7. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and submits that the said judgment is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

8. The FIR in the present case was filed on 28.08.2016 and the petitioner has been suffering the agony of trial since the last 8 years. As per the custody certificate, the petitioner has undergone actual sentence of 17 days out of total sentence of 06 months and he is not involved in any other case.



9. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.
10. Consequently, the present petition is disposed of in the following terms:-

(i) The judgment dated 17.01.2023 passed by the learned Additional Sessions Judge, Chandigarh upholding the judgment of conviction is upheld, however, the order of sentence dated 27.02.2018 is modified to the extent that the total sentence of rigorous imprisonment for six months along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 500/- imposed upon the petitioner is enhanced to Rs. 5,000/-. The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for one month.
10. Pending miscellaneous application(s), if any, shall also stand disposed of.

August 14, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)

Whether speaking/reasoned

Yes/No

(ii)

Whether reportable

Yes/No