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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-517-2020
Date of Decision: 07.03.2024

Dinesh alias Kallu ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajesh Lamba, Advocate for the Appellant.
Mr. Rakesh Dhiman, Advocate
for the complainant.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

CRM-25855-2021

The present application is filed under Section 482 Cr.P.C. for filing amended memo of parties and adding Raj Bala as respondent no. 2.

Allowed as prayed for. The amended memo of parties is taken on record. Registry is directed to tag the same at the appropriate place.

CRM-25856-2021 in/and CRA-S-517-SB-2020

1. The instant appeal has been preferred against the judgment dated 31.01.2020 passed by learned Sessions Judge, Gurugram in FIR No. 833 dated 16.12.2015 filed under Sections 323, 506 of the IPC registered at Police Station Sector 10, Gurugram whereby the appellant was convicted for offences under Section 307 and 506 of the IPC and sentenced as under:

Offence	Sentence
Section 307 IPC	Rigorous imprisonment of 4 years and a fine of Rs. 40,000/-, in default of which simple

	imprisonment of 2months
Section 506 of the IPC	Rigorous imprisonment of 4months

FACTUAL BACKGROUND

2. The facts, in brief, are that the on 16.12.2015, complainant- Rajbala stopped an unknown person from playing obscene music in front of the gate of her house. Thereafter, the appellant and 2-3 other boys came to the house of the complainant on motorcycles and started hurling abuses upon her family members. The appellant threatened to tear down their gate upon which the civil Court had granted stay. He also threatened the complainant and her family with death if the stay order was not withdrawn. When the complainant objected, the appellant gave a brick or a hammer blow on her head. The appellant’s wife and mother along with one Thakur Dutt @ Ramesh threatened the complainant side with dire consequences.

3. On finding a *prima facie* case, charges under Sections 323, 307, 506, 34 IPC were framed against the accused, to which, he pleaded not guilty and claimed trial. The prosecution examined 13 witnesses to prove its case. All the incriminating evidence was put to the appellant-accused in his statement recorded under Section 313 of the Cr.P.C., wherein, he denied all the evidence and pleaded false implication, however, did not lead any evidence in his defence.

4. On assessing all the material available on record, the appellant was convicted by the learned trial Court vide judgment dated 31.01.2020. Aggrieved by the same, the appellant preferred the instant appeal wherein his sentence was suspended vide order dated 02.11.2021.

CONTENTIONS

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5. Learned counsel for the appellant contends that the complainant and the appellant belong to the same village and are part of a larger family. With the intervention of respectables, a compromise dated 22.07.25021 (Annexure A-1) has been effected. The genesis of the occurrence mentioned in the FIR pertains to a dispute between the parties regarding tearing down a wall and putting up a gate regarding which a civil suit bearing CS NO. 25522 of 2015 was filed, which was also disposed of in view of the compromise. He further submits that he is not assailing the impugned judgment of conviction dated 31.01.2020 on merits and restricts his prayer to modification of the order of quantum of sentence in view of the compromise as the appellant has already undergone 2 months 20 days of actual custody.

6. Mr. Rakesh Dhiman, Advocate appears for the complainant and submits that he has no objection if the main case is taken on board and the sentence of the appellant is modified to the extent already undergone by the him, in view of the compromise effected between the apties.

7. Per contra, learned State counsel opposes the prayer of the appellant as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

OBSERVATIONS AND ANALYSIS

8. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the parties have arrived at a compromise and settled their dispute. In fact, the civil suit regarding the property dispute which gave rise to the scuffle in the present case has also been settled in view of the compromise. A compromise not only brings peace and

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harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of alleged offence and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility. Therefore, this Court is of the considered view that ends of justice will be met if the sentence of the appellant is reduced to the duration already undergone by him.

9. In **Deo Narain Mandal v. 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.

10. As per the custody certificate produced by the learned State counsel, details of custody period of the appellant are tabulated as under:-

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	31.01.2020 to 03.11.2021	1 year 9 months 3 days
3.	Parole availed	-	1 year 6 months 13 days
4.	Actual custody period after conviction		2 months 20 days
5.	Actual undergone period		2 months 20 days
6.	Earned remission		3 months 19 days
7.	Total sentence including remission		6 months 9 days

11. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Moreover, learned counsel for the appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

CONCLUSION

12. The FIR in the present case was lodged on 16.12.2015 and the appellant has been suffering the agony of protracted trial since the last 8 years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, out of the total sentence of 4 years in this case, he has undergone actual sentence of 2 months 20 days. Accordingly, in view of the compromise arrived at between the

parties, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment of 4 years awarded to the appellant is reduced to the period already undergone by him.

13. Consequently, the present appeal is disposed of in the following terms:-

- (i) The judgment dated 31.01.2020 passed by learned Sessions Judge, Gurugram convicting the appellant is upheld, however, the order of sentence is modified to the extent that the sentence of rigorous imprisonment for 4 years along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs. 40,000/- imposed upon the appellant by the trial Court is maintained. The appellant is directed to deposit the increased 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 appellant shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

March 07, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |