



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

**CRR-2312-2007 (O&M)
Date of decision: 26.11.2024**

RANDHIR SINGH @ SATTAR

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surender Dhull, Advocate and
Mr. Jasdeep Salooja, *amicus curiae*
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition has been preferred by the petitioner against the judgment dated 30.11.2007 passed by learned Additional Sessions Judge, Kaithal vide which judgment of conviction and order on quantum of sentence dated 22/23.07.2005 passed by learned Judicial Magistrate Ist Class, Kaithal, have been upheld, vide which petitioner has been convicted under Section 354 of Indian Penal Code and sentenced to undergo rigorous imprisonment for two years and fine of Rs. 500/- was imposed with default mechanism.

2. Prosecution story in brief is that on 26.09.1998, complainant Darshna Devi got her complaint recorded alleging therein that she is resident of village Bhainsi Majra and about four years ago she got married to Sander Pal and has a son and a daughter. On 25.09.1998, she was coming back from the Govt. Hospital, Kurukshetra after getting medicines for her one year six months old son. She was going on foot to her village and when she reached near Bhainsi Majra, Randhir alias Sattar (petitioner herein) came on a motor



cycle from behind and stopped near her. He got down from the motor cycle and asked her to sit on his motor cycle. She refused to sit on the motor cycle and the accused caught hold of her and dragged her to the fields nearby with an intention to outrage her modesty. The complainant further stated that she screamed for help and on hearing her screams Jai Parkash and Ran Singh came there on a scooter. They stopped their scooter and saved her from the clutches of the accused-petitioner. Accused Randhir Singh left the spot immediately on his motor cycle. On the basis of aforesaid allegations, FIR was lodged.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 30.11.2007 passed by learned Additional Sessions Judge, Kaithal on merits and restricts his prayer to modification of the order of quantum of sentence dated 23.07.2005 to that of sentence already undergone by the petitioner as he has already undergone a period of 23 days and not involved in any other case.

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 Appellate Court and as such, he does not deserve any leniency. However, he could not controvert the fact that petitioner is not involved in any other case.

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

6. 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 max-



imum 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 lower Appellate Court indicates no perversity in its findings and 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 modification of quantum of sentence.

8. Perusal of record indicates that FIR(supra) was registered in the year 1998 and the amendment in Section 354 of Indian Penal Code was carried out in the year 2013. As such, there is no embargo in modification of the



further indicates that petitioner has been suffering the agony of trial since the last 26 years. As per the custody certificate, the petitioner has undergone total sentence of 23 days out of rigorous sentence of two years awarded to him 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 30.11.2007 passed by the learned Additional Sessions Judge, Kaithal upholding the judgment of conviction dated 22.07.2005 passed by learned Judicial Magistrate Ist Class, Kaithal is upheld, however, the order of sentence dated 23.07.2005 is modified to the extent that the sentence of rigorous imprisonment for two years 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. 10,000/-. 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.

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

12. High Court Legal Services Committee is directed to pay remuneration to *amicus curiae* as per rules.

November 26, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE