



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

CRR-1080-2011

Date of decision: 23.07.2024

Pardeep Kumar

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Nehra, Senior Advocate with
Mr. Reetesh Kumar, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.

1. This revision petition has been preferred against the judgment dated 09.04.2011 passed by the learned Sessions Judge, Jind, vide which judgment of conviction and order of quantum of sentence dated 21.07.2010 passed by the learned Judicial Magistrate 1st Class, Jind, in FIR No.213 dated 21.07.2008 under Sections 354/452/506/34 of the Indian Penal Code (for short 'IPC'), registered at Police Station Julana, has been upheld.

2. The petitioner was convicted and sentenced under Sections 354/452/506 of IPC and was ordered to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- along with default mechanism.

3. Brief facts of the case are that the prosecutrix along with her mother-in-law used to live in the house and on 21.07.2008 at around 03:00 A.M., she was sleeping and her mother-in-law was sleeping at some distance from her, whereas, her brother-in-law (*jeth*) was sleeping on the first floor.

Accused/petitioner-Pardeep, who is the cousin of the husband of the prosecutrix



entered into her house with bad intention and started molesting her by gagging her mouth with one hand and touching her inappropriately with the other. As a result of which, she woke up and tried to get herself freed from him and in that process, her bangles had broken due to which, she also received scratches on her hands. On hearing her cries, her mother-in-law and brother-in-law woke up and on seeing her brother-in-law coming down, the accused scaled over the wall and ran away giving a threat to kill all her family members in case she disclosed about the incident to anyone. It is further alleged that previously also, the accused/petitioner committed such like acts but the villagers got the matter compromised and it was also averred that accused was causing harassment to her time and again and threatening her with dire consequences and thus, the matter was reported to concerned police station, on which formal FIR was registered against the accused person.

4. The petitioner was convicted vide judgement dated 21.07.2010 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 09.04.2011.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 21.07.2010 on merits and restricts his prayer to modification of the order of quantum of sentence, to that of the sentence already undergone by the petitioner, as he has already undergone a period of 03 months & 10 days and is not involved in any other criminal activity.

6. Per contra, learned State counsel opposes the prayer of the petitioner, as the 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.

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

8. In ***Deo Narain Mandal Vs. 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, the 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 Vs. 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.



9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. 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.

10. The FIR in the present case was lodged on 21.07.2008 and the petitioner has been suffering the agony of trial since the last 16 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 23.07.2024, the petitioner is not involved in any other case and has undergone actual sentence of 03 months & 10 days, out of total sentence of 02 years in the instant case. Given that the FIR (*supra*) was lodged on 21.07.2008 and the amendment to Section 354 of IPC was enacted on 03.02.2013, the petitioner is entitled to a reduction in the period of sentence already served.

11. 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.

12. Consequently, the present revision petition is disposed of in the following terms:-

(i) The judgment dated 09.04.2011 passed by the learned Sessions Judge, Jind, affirming the judgment of conviction dated 21.07.2010 is upheld, however, the order of sentence is modified to the extent that the sentence of rigorous imprisonment for two years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.5,000/- imposed upon the



petitioner by the learned trial Court is increased to Rs.10,000/-.

The petitioner is directed to deposit the amount of fine in the learned 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 rigorous imprisonment for one month.

13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.07.2024
Neha

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