

**CRR-2105-2012 (O&M)****1****647 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-2105-2012 (O&M)
Date of Decision: 21.11.2024****TEJINDER SINGH @ TINKU****.....Petitioner****Versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Jatinder Kumar Kansal, *Amicus Curiae*
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

**********HARPREET SINGH BRAR, J. (ORAL)**

1. Present revision petition has been preferred by the petitioner against the judgment dated 20.04.2012 passed by learned Additional Sessions Judge, Amritsar vide which judgment of conviction and order on quantum of sentence dated 12.11.2011 passed by learned Judicial Magistrate Ist Class, Amritsar, have been upheld, vide which petitioner has been convicted under Sections 354 and 506 of Indian Penal Code and sentenced to undergo substantive sentence of rigorous imprisonment for two years and total fine of Rs. 10,000/- with default mechanism.

2. Brief facts of the prosecution case are that on 29.12.2008, complainant Manjit Singh moved an application to Station House Officer, police station 'B' Division, Amritsar to the effect that his daughter namely Palak Arora aged about 8 years was playing with the children in the street when younger son namely Tinku son of Kuldeep Singh Bhatia Commission Agent took away the daughter of the complainant inside his house and outraged the modesty of his daughter under the threat of *Datar* to the effect that in case



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she disclosed about it in her house, then she will be cut. The complainant prayed that action be taken against Tinku younger son of Kuldip Singh Bhatia. On the basis of above statement of complainant, case was registered against the accused.

3. Learned counsel for the petitioner *inter alia* contends that the FIR(supra) was registered due to an ongoing animosity between the parties. Earlier, the complainant had registered a complaint under Section 107/150 Cr.P.C. against the petitioner. Further, no specific date or time qua the alleged incident finds mention in the FIR(supra). Curiously, all the witnesses examined by the prosecution are relatives of the complainant, which makes them interested parties. In the absence of an independent witness to corroborate the allegations, it cannot be said that the prosecution has proved its case beyond reasonable doubt.

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 vs. State of UP (2004) 7 SCC 257***, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of

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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 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 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. The record indicates that FIR(supra) was registered in the year 2008 and the petitioner has been suffering the agony of trial since the last 16 years. As per his custody certificate, the petitioner has undergone a total sentence of 01 year and 19 days

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out of substantive sentence of two years. He is not involved in any other case either.

8. 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.

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

(i) The judgment dated 20.04.2012 passed by the learned Additional Sessions Judge, Amritsar upholding the judgment of conviction is upheld, however, the order of sentence dated 12.11.2011 is modified to the extent that the substantive 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. 10,000/- imposed upon the petitioner is enhanced to Rs. 15,000/-. 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.

11. The High Court Legal Service Committee is directed to pay the honorarium to the *Amicus Curiae* as per rules.

(HARPREET SINGH BRAR)
JUDGE

21.11.2024*Nisha Yadav*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No