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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3055-2013
Date of decision: 30.07.2024

RAVINDER KUMAR

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashok Kumar Sama, Advocate and
Mr. Sukhcharan Singh Gill, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. This revision has been preferred against the judgment dated 01.08.2013 passed by learned Additional Sessions Judge, Fazilka, vide which, judgment of conviction and order of quantum of sentence dated 03.04.2013 passed by learned Judicial Magistrate Magistrate Ist Class, Fazilka, in case bearing FIR No.31 dated 11.03.2013 registered under Sections 354/323/506 of IPC at Police Station Sadar Fazilka has been upheld.
2. The petitioner was sentenced as under:

Offence	Sentence
354 IPC	RI for 02 years with a fine of Rs.2000/-, in default of which, to undergo for 02 months.
323 IPC	RI for 06 months with a fine of Rs.500/-, in default of which, to undergo for 01 month.

2. The case of the prosecution in brief is that the present case was registered on the basis of statement of complainant Monika D/o Randhir



Kumar, who got recorded her statement with SI Balwinder Singh on 11.03.2013 to the effect that she is resident of Village Khanpur and has studied upto 9th standard and now she is doing household work. On the previous day i.e. 10.03.2013, in the evening, her nephew Hardeep Kumar was weeping and she had picked him up and took her nephew at the main gate of her house where her father Randhir Kumar was standing, who told her to take Hardeep towards Mandir side on which, she took her nephew at some distance of her house adjoining the turning point. It was about 7:15 PM, Ravinder Kumar (petitioner herein) S/o Mani Ram resident of their village was hiding himself along with the wall and when she tried to pass away, then petitioner with bad intention caught hold her arm and when she tried to release her arm, petitioner pushed her, on which her nephew fell down on the ground and thereafter, petitioner-Ravinder Kumar started teasing her. She raised hue and cry and in the meantime, her father Randhir Kumar rushed to the spot and petitioner leaving the complainant, escaped from the spot saying that if the matter is reported to anybody, the complainant will be eliminated. Her father looked after her nephew and on hearing the raula, many persons gathered at the spot. Due to push of petitioner to her and due to fall of her nephew Hardeep on the ground, he received injuries on his head and other parts of the body and due to darkness, they remained inside the house and on 11.03.2013 the FIR was lodged. Hence, the complaint.

3. The petitioner was convicted vide judgment dated 03.04.2013 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 01.08.2014.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction and order of sentence dated 03.04.2013



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. He has undergone a period of 05 months and 14 days and he is not involved in any other criminal activity.

5. 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 Appellate Court and as such, he do not deserve any leniency.

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

7. 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.

8. 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. 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.

9. The FIR in the present case was lodged on 11.03.2013 and the petitioner has been suffering the agony of protracted trial for more than last 11 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, he is not involved in any other case and has undergone actual sentence of 05 months and 14 days out of total sentence of 02 years, in the instant case.

10. 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.

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

(i) The judgment dated 01.08.2013 passed by the learned Additional Sessions Judge, Fazilka, affirming the judgment of conviction is upheld, however, the order of sentence dated 03.04.2013 is modified to the extent that the sentence of rigorous



imprisonment for 02 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.2500/- imposed upon the petitioner by the trial Court is increased 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 rigorous imprisonment for one month.

July 30, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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