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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Reserved on: July 25, 2024

Pronounced on: July 26, 2024

Mohit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kapish singla, Advocate for
Mr. Ashit Malik, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision is preferred against the judgment dated 07.01.2015 passed by the learned Additional Sessions Court, Karnal vide which judgment of conviction dated 21.08.2014 and order of quantum of sentence dated 22.08.2014 passed by the learned Principal Magistrate, Juvenile Justice Board, Karnal in FIR No. 225 dated 11.06.2013 under Sections 354, 323, 509, 34 IPC registered at Police Station Indri, Karnal was upheld.

2. The facts, in brief, are that the case was registered on the basis of the statement of the complainant-victim, whereby it was alleged that on 09.06.2013 at about 8:00/8:30 PM the petitioner-juvenile in conflict with law along with his associates physically assaulted her. They outraged her modesty and caused grievous injury on her person. Further, the petitioner threatened to put the victim and her family members to death. The petitioner is the cousin brother of the complainant-victim. On the basis of this occurrence, investigation was initiated. The statements of the witnesses were recorded and

the petitioner was apprehended. After completion of the investigation, final report under Section 173 Cr.P.C. was presented before the Juvenile Justice Board to conduct inquiry.

4. The learned trial Court, after assessing the material on record, charged the petitioner for committing an offence punishable under Sections 354, 354-A, 323, 325, 506 and 509 of the IPC, to which he pleaded not guilty and claimed regular inquiry. Following inquiry, the petitioner was held guilty vide judgement dated 21.08.2014 and was awarded the following sentence vide order dated 22.08.2014 by the learned trial Court: -

Offence	Sentence
Section 354 read with Section 34 IPC	Appellant to be kept in Special Home for 2 years.
Section 354-A read with Section 34 IPC	Appellant to be kept in Special Home for 1 year.
Section 323 read with Section 34 IPC	Appellant to be kept in Special Home for 6 months.
Section 325 read with Section 34 IPC	Appellant to be kept in Special Home for 2 years.
Section 509 read with Section 34 IPC	Appellant to be kept in Special Home for 1 year.

5. Aggrieved by the same, the petitioner preferred an appeal before the lower Appellate Court, which was dismissed vide judgment dated 07.01.2015.

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CONTENTIONS

6. Learned counsel for the petitioner, *inter alia*, contends that on 11.06.2013 the complainant, without referring to her earlier complaint dated 09.06.2013, got her statement recorded before the investigating agency. A perusal of the same would show that there were improvements from her earlier statement. It was on the basis of this improved version that the instant FIR was registered. Further, PW-4 i.e. Dr. Munish Kumar deposed that on 27.06.2013 X-ray of the nose of the complainant was repeated and the a fracture of the nasal bone was found, whereas as per X-ray report dated 10.06.2013 no such fracture was found. Resultantly, the trial Court ought to have given the benefit of contradictory reports to the petitioner. The learned Courts below have wrongly observed that the X-ray was reassessed as Dr. Munish has categorically stated that X-ray of the complainant was repeated. Therefore, no authenticity can be placed upon the second X-ray report as it was conducted after a gap of 18 days. Lastly, there was motive for falsely implicating the petitioner as the families of both the complainant and the petitioner were involved in legal disputes regarding property. As such, prayer has been made for releasing the petitioner on probation.

7. 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 been upheld by the learned lower Appellate Court, and as such, they no interference is warranted by this Court.



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OBSERVATIONS AND ANALYSIS

8. I have heard learned counsel for the parties and perused the paper book with their able assistance.

9. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in **Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in **Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

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10. A perusal of the judgment of conviction passed by the Juvenile Justice Board and the lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. The FIR in the present case was lodged on 11.06.2013 and the case was instituted in the Juvenile Justice Board on 16.07.2013. The petitioner has faced the agony of protracted trial, which has lasted for approximately 11 years. The petitioner was a minor at the time of the offence and has his whole life in front of him. As such, this Court finds it fit to take a lenient view in the present case.

11. 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. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformatory.

14. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Karnal affirming the conviction and the quantum of sentence is upheld, however, having regard to the fact that the petitioner has no criminal antecedents and the factors

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mentioned hereinabove, this court is inclined to give him the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, it is directed that the petitioner shall be released on probation for good conduct on furnishing a personal bond of Rs. 20,000/- with a surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of two years, to the satisfaction of the concerned trial Court. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commits breach of the undertaking given by him, he shall be called upon to undergo the sentence imposed upon him by the learned Additional Sessions Judge, Karnal.

15. With the aforesaid directions, the instant petition stands disposed of.
16. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)

JUDGE

26.07.2024

Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No