



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

CRR-3914-2013

Date of decision: 24.07.2024

Sukhdev Singh @ Sukha and others

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vipin Mahajan, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J.

1. This revision petition has been preferred against the judgment dated 22.11.2013 passed by the learned Additional Sessions Judge, Gurdaspur vide which judgment of conviction and order of quantum of sentence dated 07.01.2011 passed by the learned Judicial Magistrate 1st Class, Gurdaspur, in FIR No.35 dated 25.03.2006 under Sections 354/120-B of the Indian Penal Code (for short 'IPC'), registered at Police Station Dhariwal, has been upheld.

2. The petitioners were convicted and sentenced under Section 354 of IPC read with Section 120-B of IPC and was ordered to undergo rigorous imprisonment for a period of two years each and to pay a fine of Rs.2,000/- each along with default mechanism.

3. Brief facts of the case are that the complainant, namely, Neetu, along with Rita on 17.03.2006 at around 06:00 P.M. went to answer the call of nature near the banks of river and the accused/persons/petitioners who were hiding themselves behind the bushes came out and outraged their modesty and



thus, the matter was reported to concerned police station, on which formal FIR was registered against the accused persons.

4. The petitioners were convicted vide judgement dated 07.01.2011 by the learned trial Court, which has also been upheld by lower appellate Court vide judgment dated 22.11.2013.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 07.01.2011 on merits and restricts his prayer to modification of the order of quantum of sentence, to that of the sentence already undergone by the petitioners, as they have already undergone a period of more than 04 months and are not involved in any other criminal activity.

6. Per contra, learned State counsel opposes the prayer of the petitioners, 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, they do 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 petitioners 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 25.03.2006 and the petitioners have been suffering the agony of trial since the last 18 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desire to live a peaceful life. As per their custody certificate dated 23.07.2024, the petitioners are not involved in any other case and have undergone actual sentence of more than 04 months, out of total sentence of 02 years in the instant case.



11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

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

- (i) The judgment dated 22.11.2013 passed by the learned Additional Sessions Judge, Gurdaspur, affirming the judgment of conviction dated 07.01.2011 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 petitioners is reduced to the period of sentence already undergone by them.
- (ii) The sentence of fine of an amount of Rs.2,000/- imposed upon the petitioners by the learned trial Court is increased to Rs.10,000/- each. The petitioners are 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 petitioners 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

24.07.2024

Neha

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