



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

**CRR-2952-2015 (O&M)
Date of decision: 27.11.2024**

SUNIL

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Ishita Negi, *amicus curiae*
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred by the petitioner against the judgment dated 04.06.2015 passed by learned Additional Sessions Judge, Bhiwani upholding the judgment and order on quantum of sentence dated 12.08.2014/13.08.2014 passed by learned Sub Divisional Judicial Magistrate, Siwani 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 in case bearing FIR No. 58 dated 19.03.2012 registered at Police Station Siwani District Bhiwani.

2. The present case was registered on the application of complainant Rajbir on the allegations that he is a labourer by profession. He has four children namely Nisha, aged eight years, Naveen aged seven years, Vishnu aged 5 years and Aarti aged three years. Rasam Pagri ceremony of his uncle was held on 16.03.2012 and they had gone to their uncle's house. His elder daughter Nisha and younger daughter Naveen were present in the house. His neighbour Bindu alias Sunil (petitioner herein) called complainant's daughter Naveen to his house at about 12.00 Noon/1.00 p.m. and took her inside the kitchen and misbehaved with her. His daughter started crying, upon which, his



other daughter namely Nisha reached at Bindu's house. On hearing the noises from Kitchen, Nisha called for her sister and suddenly Bindu alias Sunil opened the door of kitchen and fled away from the spot. While leaving the spot, Sunil also threatened to kill both of them, if the matter is reported to someone else. The complainant's daughter narrated the incident to him as well as their mother Kavita. On the basis of aforesaid allegations, FIR (supra) was registered.

3. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 12.08.2014 by learned SDJM, Siwani. Aggrieved by the same, the petitioner preferred an appeal, which was dismissed by learned lower Appellate Court vide judgment dated 04.06.2015.

4. Learned counsel (*amicus curiae*) *inter alia* contends that petitioner has been falsely implicated in the present case due to previous enmity with the complainant. He further argued that complainant Rajbir himself has not supported the prosecution case, and therefore, the prosecution story is not trustworthy. As such the factual ingredients attracting the offences under Sections 354 and 506 of Indian Penal Code are not available on record. He further submits that the petitioner has already undergone custody of 05 months and 24 days inclusive of remission and is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of petitioner as the learned SDJM, Siwani has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the same has also been upheld by the learned lower Appellate Court. As such, the petitioner does not merit 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 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.

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.

9. The FIR in the present case was lodged on 19.03.2012 and petitioner has been suffering the agony of protracted trial for more than last 12



years. Since his conviction, petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he has undergone actual sentence of 04 months and 24 days and earned remission of one month. Thus, he has undergone total custody of 05 months and 24 days out of substantive sentence of rigorous imprisonment of two 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 petitioner is reduced to the period already undergone by him.

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

- (i) The judgment dated 04.06.2015 passed by learned Additional Sessions Judge, Bhiwani affirming the judgment of conviction dated 12.08.2014 passed by learned SDJM, Siwani is upheld, however, the order of sentence dated 13.08.2014 is modified to the extent that substantive sentence of rigorous imprisonment for 02 years awarded to the petitioner is reduced to the period of sentence already undergone by him and a fine of Rs. 5,000/- is imposed upon him.
- (ii) 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 15 days.

12. High Court Legal Services Committee is directed to pay remuneration to *amicus curiae* as per rules.

November 27, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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