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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-339-2015 (O&M)
Date of decision: 25.07.2024

Dhyan Singh @ Dhyanu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kulvir Narwal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 20.12.2014 passed by learned Additional Sessions Judge, Jhajjar, whereby, while upholding the judgement of conviction dated 14.12.2012, sentence of the petitioner awarded by learned trial Court vide order of sentence dated 15.12.2012, in FIR No.477 dated 09.12.2002 under Section 354 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sadar Bahadurgarh, District Jhajjar, was reduced from simple imprisonment of two years to simple imprisonment of one year.
2. The petitioner was convicted and sentenced under Section 354



of IPC and was ordered to undergo simple imprisonment for a period of two years and to pay a fine of Rs.5,000/- along with default mechanism. Thereafter, the petitioner filed an appeal before learned lower appellate Court, in which, vide judgment dated 20.12.2014, judgment of conviction dated 14.12.2012 was upheld and the order of sentence dated 15.12.2012 was modified and simple imprisonment of two years was reduced to simple imprisonment of one year.

3. Brief facts of the case are that FIR (supra) was registered on the complaint given by the complainant-victim 'S' on the allegations that she was studying in Class VIII and her mother gave birth to a child and she was admitted in a hospital at Kharkhoda for the past 12-13 days and in order to take care of her mother, her father was also in the hospital. On 08.12.2002 at about 05.30 p.m., she went to their plot (*gher*) to release the buffaloes. The petitioner caught her from behind and by muffling her mouth, tried to commit rape upon her. On hearing the hue and cry, her cousin Amit came there and he called his mother namely Shanti i.e. her aunt (*tai*) and she saved the victim. In the meantime, the petitioner ran away from the spot leaving his shawl.

4. The petitioner was convicted vide judgement dated 14.12.2012 by learned trial Court, which has been upheld by lower appellate Court vide judgment dated 20.12.2014. However, sentence awarded to the petitioner by learned trial Court vide order of sentence dated 15.12.2012 was reduced from simple imprisonment of two years to simple imprisonment of one year.



5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 14.12.2012 on merits and restricts his prayer to further modification of the order of quantum of sentence, which was modified by learned lower appellate Court by reducing the sentence of simple imprisonment from two years to one year. He further submits that the petitioner has already undergone a period of 02 months and 20 days and is not involved in any other criminal activity, therefore, his sentence may be further reduced to the period already undergone by him.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by learned lower appellate Court, however, order of sentence was modified reducing the sentence of simple imprisonment of two years to one year and as such, he does 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 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.

10. The FIR in the present case was lodged on 09.12.2002 and the petitioner has been suffering the agony of trial since the last 22 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 dated



24.07.2024, the petitioner is not involved in any other case and has undergone actual sentence of 02 months and 20 days 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 petitioner is further reduced to the period already undergone by him.

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

- (i) The judgment dated 20.12.2014 passed by learned Additional Sessions Judge, Jhajjar, affirming the judgment of conviction dated 14.12.2012, is upheld, however, the order of sentence dated 15.12.2012 is modified to the extent that the sentence of simple imprisonment of two years along with default mechanism awarded to the petitioner, which was reduced by learned lower appellate Court to simple imprisonment of one year vide judgment dated 20.12.2024, is further reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs.5,000/- imposed upon the petitioner by learned trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the increased amount of fine in 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 petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

25.07.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No