



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

803CRR-3408-2015
DATE OF DECISION: 29.07.2024

Didar Singh @ Kalia.....Petitioner

VERSUS

State of Haryana.....Respondent

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.Karan Singh, Advocate,
for the petitioner.

Mr.Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 19.08.2015 passed by Additional Sessions Judge, Kaithal vide which judgment of conviction and order of quantum of sentence dated 07/08.08.2013 passed by learned ACJM, Kaithal in FIR No. 62 dated 21.03.2010 filed under Sections 354 and 452 IPC registered at Police Station Sadar Kaithal, has been upheld. The petitioner was sentenced as under:

Offence	Sentence
Section 354 IPC	To undergo RI for a period of one year and to pay fine of Rs.1,000/- and in default of payment of fine to further undergo RI for a period of one month
Section 452 IPC	To undergo RI for a period of one year and to pay fine of Rs.1,000/- and in default of payment of fine to further undergo RI for a period of one month

2. Allegations as per FIR are that on 21.03.2010, at about 06:00 pm, ESI Mange Ram, Incharge Police post Sangatpura alongwith other police officials was present near Mini Bank, Baba Ladana where Smt. Kitabo Devi alongwith



her husband Pali Ram came there and got her statement Ex.P1 recorded to the effect that on 20.03.2010 at about 07:30 pm, her husband Pali Ram after having meals had gone near the Bus Stand for bringing medicines. At that time, Kalia Ram s/o Diwana, who is brother-in-law (sala), complainant's brother-in-law (jeth) namely Bharthu came to the house of complainant. He went to *Chaubara* on the first floor of the house where complainant was present. He asked about Pali Ram. Complainant told him that he had gone to the market for fetching medicines. On seeing her all alone, Kalia Ram with bad intention opened his trousers. He thereafter caught hold of her arm and tore her shirt. He scuffled with her. Complainant pushed Kalia Ram aside and while raising alarm, came down stairs. Upon hearing noise, her brothers-in-law (jeths) Pala and Chander Bhan sons of Siri Ram came at the spot and on seeing them, Kalia Ram fled the spot. Complainant narrated the entire incident to her husband. All the family members gathered but no one could satisfy the complainant, whereupon, she and her husband decided to go to the police post, Sangatpura and while they were going there, on the way near Mini Bank, they met the policemen. On the basis of aforesaid statement, formal FIR was registered.

3. The petitioner was convicted and sentenced vide judgement dated 07/08.08.2013 by the learned trial Court which has also been upheld by lower appellate Court vide judgment dated 19.08.2015.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 07.08.2013 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 as has already undergone a period of



two months and twenty one days as on 28.07.2024 and 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 Appellant Court and as such, he does 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 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 noti



cing 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. 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 21.03.2010 and the petitioner has been suffering the agony of trial since the last more than 14 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 two months and twenty one days out of total sentence of one year 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 appeal is disposed of in the following terms:-

(i) The judgment dated 19.08.2015 passed by the learned Additional Sessions Judge, Kaithal affirming the judgment of conviction is upheld, however, the order of sentence dated 08.08.2013 is modified to the extent that the sentence of rigorous imprisonment for one year under Sections 354 IPC and 452 IPC each 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.1,000/- 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.

12. Pending miscellaneous application(s), if any, shall also stand disposed.

29.07.2024	(HARPREET SINGH BRAR)
mamta	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No