



779

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-857-2015
Date of decision: 25.07.2024

SUBHASH ALIAS TITU

V/S

STATE OF HARYANA

...PETITIONER

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. This revision has been preferred against the judgment dated 15.12.2014 passed by learned Sessions Judge, Narnaul, vide which, judgment of conviction dated 06.10.2012 and order of quantum of sentence dated 13.10.2012 passed by learned Sub Divisional Judicial Magistrate, Mohindergarh, in case bearing FIR No.19 dated 18.01.2007 registered under Sections 323, 325, 354 of IPC at Police Station Kanina, has been upheld. The petitioner was sentenced as under:

Offence	Sentence
354 IPC	RI for 02 years with a fine of Rs.500/-, in default of which, to undergo for 01 month.
323 IPC	RI for 06 months

2. The case of the prosecution in brief is that on 18.01.2007, HC Om Parkash along with other police officials, was present at Bus Stand, Sehlang in connecting with patrolling and investigation duty when complainant Parmesh



wife of Balwan accompanied by her husband met HC Om Parkash and presented an application alleging therein that she is resident of village Pota and does household work. Her husband is an agriculturist. On 18.1.2007 at about 10.00 am, she had gone near bus stand to feed the ants then all of a sudden a person came and embraced her from behind and with a bad intention, gave a bite on her face. She saw and identified said person as Titu son of Jagdish Parshad (petitioner herein) belonging to their village Pota. She raised noise upon which, said person ran away towards the mustard field due to fear of persons approaching there. She went to her house and disclosed the entire occurrence to her husband and now she accompanied by her husband has approached the police. She prayed to take necessary action against the petitioner/accused. On the aforesaid information, instant FIR under Section 354 IPC was registered. Preliminary investigation was conducted by HC Om Parkash. Rough site plan was prepared. Statements of witnesses were recorded. Accused was arrested and after completion of investigation, challan against the accused under Sections 323, 325, 354 IPC was prepared by S.H.O. Police Station Kanina and same was presented before this Court.

3. The petitioner was convicted vide judgment dated 06.10.2012/13.10.2012 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 15.12.2014.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction and order of sentence dated 06.10.2012/13.10.2012 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, he has undergone a period of 05 months and 01 day and he 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 Appellate Court and as such, he do 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 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 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. Moreover, 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.

9. The FIR in the present case was lodged on 18.01.2007 and the petitioner has been suffering the agony of protracted trial for more than last 16 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 05 months and 01 day out of total sentence of 02 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 the petitioner is reduced to the period already undergone by him.

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

(i) The judgment dated 15.12.2014 passed by the learned Sessions Judge, Narnaul, affirming the judgment of conviction is upheld, however, the order of sentence dated 13.10.2012 is modified to the extent that the sentence of rigorous imprisonment for 02 years 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.500/- imposed upon the petitioner by the trial Court is increased to



Rs.5,000/-. 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.

July 25, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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