

CRR-782-2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

831

CRR-782-2016 (O&M)
DATE OF DECISION: 02.08.2024

KASHMIRI LAL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr. Krishan 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 09.02.2016 passed by the Court of learned Additional Sessions Judge, Yamuna Nagar vide which judgment of conviction and order of quantum of sentence dated 13/14.06.2013 passed by the Court of learned Judicial Magistrate 1st Class, Yamuna Nagar in FIR No.112 No. 24.11.2010 filed under Sections 323 & 354 of Indian Penal Code, registered at Police Station Buria has been upheld. The petitioner was sentenced as under:

Offence	Sentence
Section 323 IPC	To undergo RI for six months and fine of Rs.500/- each and in default of payment of fine to further undergo SI for one month
Section 354 IPC	To undergo RI for one year and fine of Rs.500/- each and in default of payment of fine to further undergo SI for one month

All the sentences were order to run concurrently.

2. Allegations as per FIR are that on 22.11.2000, on receipt of an information in Police Station Buria from Police Station City Jagadhri regarding admission of one Sumita wife of Bali Ram, resident of village Dayalgarh in civil hospital Jagadhri for

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having sustained injuries in some dispute, HC Sumesh Pal reached civil hospital, Jagadhri after collecting the medical rukka and MLR of the injured from Police Station City Jagadhri, he presented an application before the doctor for seeking opinion regarding fitness of the injured to make statement, upon which the doctor declared her unfit to make statement. On 23.11.2000, HC Sumesh Kumar again reached civil hospital, Jagadhri and sought the opinion of the doctor, upon which the doctor had reported that the injured has already been discharged from the hospital. Thereafter, on 24.11.2010, ASI Jasbir Singh along with HC Sumesh Kumar reached at the house of the said injured, namely, Sunita in village Dayalgarh where she presented a written application. In the MLR, the doctor had reported five injuries on the person of the injured. The complainant in her application had reported that she is Harijan by Caste. Her husband is running a Government Ration Depot in village Dayalgarh. Her husband often remains ill and due to that she used to look after the work of ration depot. One of the inhabitant of their village, namely, Kashmiri Lal son of Nanak Chand, Caste Harijan was nourishing grudge against her and was also keeping an evil eye upon her. On 22.11.2010 at about 3 PM, when she was passing through the street near the tubewell of said Kashmiri Lal, then he gave call to her, upon which she stopped. He came near to her on the pretext of enquiring about the supply of wheat on ration depot and caught hold of her both arms. She uttered abuse to him and made an effort to get herself freed and in that process her bangles were broken and she sustained injuries on her arms. She became scared. He also pulled his hand on her breast with bad intention. When she raised noise, then Julekha wife of Aliyas and Manija wife of Anwar Khan reached the spot and on seeing them, the offender fled away from the spot. She felt pain in her stomach in the evening and thus, she was hospitalized in civil hospital, Jagadhri from where she was discharged on 23.11.2010 at evening time. She prayed for taking legal action against the accused. On the basis of this complaint, formal FIR was registered and the investigation was swung into action.

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3. The petitioner was convicted and sentenced vide judgement dated 13/14.06.2013 by the Court of learned Judicial Magistrate 1st Class, Yamuna Nagar, which has also been upheld by the Court of Additional Sessions Judge, Yamuna Nagar vide judgment dated 09.02.2016.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 09.02.2016 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 he has have already undergone a period of 05 months and 04 days and is 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 Court of learned Additional Sessions Judge, Yamuna Nagar 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 re-

iterated that the imposition of sentence also serves a social purpose as it acts as a de-

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terrent 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. 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 24.11.2010 and the petitioner has been suffering the agony of trial since the last 14 years. Since his conviction, the petitioner has grown into law-abiding citizens and desire 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 04 days out of total sentence of 01 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 petition is disposed of in the following terms:-

(i) The judgment dated 09.02.2016 passed by the Court of learned Additional Sessions Judge, Yamuna Nagar affirming the judgment of conviction is upheld, however, the order of sentence dated 14.06.2013 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs.1000/- (Rs.500+500) imposed upon



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the petitioner by the trial Court is increased to Rs.2,000/- The petitioner is directed to deposit the said increased 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.

02.08.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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