



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

235

CRR-1381-2018

DECIDED ON: 20.02.2024

KAUR SINGH

... PETITIONER

VERSUS

NACHHATTAR SINGH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

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Present: Mr. PKS Phoolka, Advocate  
for the petitioner.

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**SANDEEP MOUDGIL, J**

1. The instant revision petition has been preferred against the order 16.01.2018 passed by Additional Sessions Judge, Bathinda whereby, an appeal preferred under Section 372 Cr.P.C. for enhancement of sentence awarded to the respondent No.1 has been declined.

2. According to the petitioner, the sentence of two years rigorous imprisonment with a fine of Rs. 500/-, in default thereof, to further under rigorous imprisonment for a period of one month, for offence under Section 326 of the Indian Penal Code, 1860 (hereinafter referred to 'IPC') is ridiculous and therefore, it should be enhanced.

3. It is necessary to give certain background in order to appreciate the peculiar facts and circumstances which have given rise to the present petition.



*The Judicial Magistrate Ist Class, Bathinda had convicted the respondent No.1 for the offence under Section 326 IPC and sentenced as aforesaid. Complainant Petitioner filed Criminal Appeal before Additional Sessions Judge for enhancement of sentence that was dismissed as not maintainable. Hence this petition in this Court. Revision petition filed by Kaur Singh against his conviction stands decided.*

4. Learned counsel for the petitioner would submit that sentence is required to be enhanced being inadequate looking at the gravity of offences committed by the respondent No.1.

5. Mr Phoolka, counsel for the complainant/petitioner contended that the sentence imposed on the accused is inadequate and out of proportion looking to the nature of the offence. The learned counsel for the petitioner failed to show any cogent and convincing evidence and special grounds on the basis of which punishment should be enhanced. The incident is of the year 2013 and since for about 5 years a democle's sword has been hanging on the accused. It would not be expedient to send the respondent No.1 to jail after about 5 years. Even though he has been convicted for the offence under Section 326 IPC and has already undergone the sentence as awarded by the Court below.

5. The question that falls for consideration before this Court is as to whether petition filed by the complainant for enhancement of sentence is tenable.

6. To elucidate the victim is given opportunity to prefer appeal in the event of imposing inadequate compensation, but at the same time there is no provision for appeal by the victim for questioning the order of sentence as inadequate, whereas Section 377, Cr.P.C gives the power to the State Government



to prefer appeal for enhancement of sentence. While it is open for the State Government to prefer appeal for inadequate sentence under Section 377, Cr.P.C but similarly no appeal can be maintained by victim under Section 372, Cr.P.C on the ground of inadequate sentence. It is fairly well settled that the remedy of appeal is creature of the Statute. Unless same is provided either under Code of Criminal Procedure, 1973 or by any other law for the time being in force no appeal, seeking enhancement of sentence at the instance of the victim, is maintainable

6. In the case in hand, the complainant has filed the revision with a prayer for enhancement of the sentence of respondent No.1. However, such a revision on behalf of the complainant is not maintainable as only the State has the right to pray for enhancement of the sentence by filing an appeal under Section 377 Cr.P.C. The State of Punjab has chosen not to file any such appeal. Therefore, no indulgence can be granted to the complainant in the revision filed by him.

7. In view of the discussions made hereinabove, the present revision petition is dismissed on the ground of maintainability.

20.02.2024  
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(SANDEEP MOUDGIL)  
JUDGE

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