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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-823-2017 (O&M)

Date of decision: 08.08.2024

AVTAR SINGH @ Tari

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gursimran Singh Bhatia, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 15.02.2017 passed by learned Additional Sessions Judge, Amritsar upholding the judgment of conviction and order of quantum of sentence dated 16.07.2016 passed by learned Judicial Magistrate Ist Class, Amritsar in case FIR No. 130 dated 16.05.2015 registered at Police Station Sultanwind, Amritsar vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Avtar Singh	354-A of Indian Penal Code	Rigorous imprisonment for one year	Rs. 10,000/- and in default of payment of fine, further awarded simple imprisonment for one month.

2. The present FIR has been recorded on the statement of complainant- Neena Viridi. He got recorded in his statement to the effect that she is married with Tarlochan Singh she has two children i.e. one boy and one girl. It was further stated that her daughter is a student of 9th standard. She and

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her husband are working. On 12.03.2015, when she came back from work, her daughter told her that one of the person living in the same locality namely Avtar Singh @ tari (petitioner herein) told " Mera Pani Kadwa DE" and he does obscene talks with her daughter (hereinafter referred as Victim) of the complainant. She further disclosed that petitioner was compelling her to have physical relations and does obscene acts with her. She narrated all the facts disclosed by the victim to her husband. The matter was complained to the father of the accused and when no action was taken against matter was reported to the police.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 16.07.2016 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 already undergone a period of 02 month and 13 days, and is not involved in any other criminal activity.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that 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.

5. I have heard learned counsel for the parties and perused the record with his able assistance.

6. 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 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.

7. 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 petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

8. The FIR in the present case was filed on 16.05.2015 and the petitioner has been suffering the agony of trial since the last 9 years. Since his

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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 02 months and 13 days out of total sentence of 01 year in the instant case.

9. 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.

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

(i) The judgment dated 15.02.2017 passed by the learned Additional District Judge, Amritsar upholding the judgment of conviction is upheld, however, the order of sentence dated 16.07.2016 is modified to the extent that the total 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 him.

(ii) Fine of Rs. 10,000/- imposed upon the petitioner is enhanced to Rs. 15,000/-. 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 simple imprisonment for one month.

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

August 08, 2024*Ajay Goswami***(HARPREET SINGH BRAR)
JUDGE**

(i) Whether speaking/reasoned
(ii) Whether reportable

Yes/No
Yes/No