

CRR No. 2758 of 2018 (O&M)

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2024:PHHC:023524

268-2

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR No. 2758 of 2018 (O&M)

Date of Decision:-08.02.2024

JOHARI MAL

... Petitioners

Versus

STATE OF HARYANA & ANOTHER

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr.U.K.Agnihotri, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG Haryana.

SANJIV BERRY, J.(ORAL)

CRM-29194 of 2018

1. The instant application is for condoning the delay of 29 days in filing of Revision Petition.

2. Heard.

3. Application is allowed and delay of 29 days in filing of Revision Petition is hereby condoned.

Main case

1. By way of the present petition, petitioner has challenged the impugned judgment passed by Additional Sessions Judge, Gurugram dated 30.11.2017 in Criminal Appeal No. 88 of 2016 arising out of FIR No. 10 dated 21.01.2013 under Section 323, 506, 34 IPC Police Station Bilaspur,

District Gurugram, being erroneous, illegal and against the provision of law to the extent of reducing sentence awarded to respondent No.2 Chandan from one year to simple imprisonment of three months and the same is liable to be set aside.

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner happens to be the complainant in the aforesaid FIR registered on the allegations that on 01.01.2013 the accused party had attacked the house of the petitioner and caused damage to the car besides extending threats on the complainant, both the parties were taken to police station and were detained and while in custody accused Chandan , Charan Singh, Ramesh started abusing the complainant party who were also confined in the lockup and attacked them and after their medical examination, the police arrested the accused party. He submits that after considering the evidence and witnesses the learned Magistrate held the accused party guilty of having made offence punishable under Section 323, 506 and 34 IPC vide judgment dated 10.12.2015 and while passing the order of sentence dated 11.12.2015 learned Magistrate granted probation to accused Ramesh and Charan Singh, however accused Chandan Singh - respondent No.2 was sentenced to undergo simple imprisonment for one year with fine of ₹1000/-. He contends that appeal being preferred by Chandan Singh, the learned Additional Sessions Judge vide impugned judgment dated 30.11.2017 proceeded to uphold the conviction but modified the order of sentence by reducing it to 3 months and fine of ₹1000/-. He submits that there was no ground made out for such a reduction in sentence and considering the fact that the accused had attacked the complainant party

in police lockup would show that they had no respect for law and on this core the respondent No.2 do not deserve any concession. He submits that such reduction of sentence by learned Additional Sessions Judge is erroneous and is liable to be set aside.

3. On the other hand, learned State counsel has submitted that the learned Additional Sessions Judge has acted in accordance with law in reducing the sentence, taking into consideration the age of respondent No.2 and also the nature of offence. He submits that there is no merit in the petition and as such the same may be dismissed.

4. After considering the submissions made by learned counsel for the petitioner as well as learned State counsel and considering the record it is not disputed that the quarrel took place between the parties in the police lockup where they had inflicted injuries on each other, instant FIR was registered at the behest of the petitioner while FIR No. 1 dated 01.01.2013 was registered against the the petitioner and other persons at the behest of the complainant Charan Singh. The learned Magistrate while passing the judgment dated 10.12.2015 held the accused Ramesh, Charan Singh, Chandan Singh liable for having committed offences punishable under Section 323, 506, and section 34 IPC and while passing the order of sentence dated 11.12.2015 accused Ramesh and Charan Singh were given concession of probation while respondent No.2 Chandan was sentenced to undergo simple imprisonment for one year and to pay fine of ₹1000/-. The appeal was preferred by respondent No.2 whereby learned Additional District & Sessions Judge although dismissed the appeal but as far as the conviction part was concerned, sentence was reduced from one year to 3

months and fine of ₹1000/-. This revision petition has been preferred against the modification of the sentence. However considering the facts and circumstances and the reason given by the learned Additional District & Sessions Judge, I find no infirmity or illegality committed by the concerned Court in reducing the sentence. The perusal of the impugned judgment would reveal that the learned Additional District & Sessions Judge upheld the order of conviction whereby respondent No.2 was held guilty for offences punishable under Section 323, 506, and Section 34 IPC. However, considering the aspect that he was facing trial for last more than 4 years and being more than 60 years of age, the learned Court modified the sentence by reducing it from 1 year to 3 months simple imprisonment and to pay fine of ₹1000/-. It is evident that the sentence part was modified by learned Court taking into account the age of the respondent No.2 and also the fact that he was facing the trial for last more than 4 years coupled with the nature of the offences, no infirmity or illegality in the impugned order could be pointed out by learned counsel for the petitioner so as to call for any interference therein.

5. It is also worth mentioning here that the scope of interference in revision petition is limited as has been held by Hon'ble Supreme Court in ***New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey, 2020(1)Ori. Law Rev. 246*** as under:-

“8. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under Section 397 Cr.P.C, 1973 is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior Court. The revisional Court is entitled to look into the regularity of any proceeding before an inferior Court. As

reiterated by this Court in a number of cases, the purpose of this revisional power is to set right a patent defect or any error of jurisdiction or law.”

6. Applying these principles to the facts and circumstances of the present case, it is observed that the impugned judgment as far as the aspect of reduction of sentence is concerned, it does not suffer from any patent defect or infirmity or illegality so as to call for any interference herein to exercise the revisional jurisdiction.

7. Resultantly, finding no merit in the petition the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

08.02.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |