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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1048-2021 (O&M)

Date of decision: 17.07.2024

ARVIND YADAV

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Prabhjot Kaur, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab and
Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 02.08.2021 passed by learned Additional Sessions Judge, Bathinda upholding the judgment of conviction and order of quantum of sentence dated 05.12.2019 passed by learned Judicial Magistrate Ist Class,Talwandi Sabo in FIR No. 13 dated 20.03.2018 registered at Police Station Kot Fatta, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Arvind Yadav	354-A of Indian Penal Code	Simple imprisonment for 02 years	Rs. 1,000/- and in default of payment of fine, further awarded simple imprisonment for 10 days.

2. The case of the prosecution, in nutshell is that FIR was registered on the statement of prosecutrix, who has been the student of Department of English doing her Masters from the year 2016 to 2018 at Central University of

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Punjab, Bathinda. She has been residing in Girls Hostel situated within the premises of the University. There is a common mess for students in the University. On 27.02.2018 a musical event was being organized in the University which continued till late night. At 10.30 pm the AWDS Dr.Tarun Arora, made the announcement that students can have dinner in the mess till 11.30 pm. In view of the musical event, the prosecutrix went to the mess at around 10.30/10.45 pm with her friend Ravinder Singh but the main door of the mess was closed, however, number of students were having dinner in the mess. Thus, she decided to take the back door to the mess and have her food. She went inside the mess and while her friend decided to have the food in the sitting area of the mess, she decided to take food to her hostel room, and while she was taking the food to her room, the accused namely Arvind, the mess worker, followed her and intentionally touched her on her breast. She got scared and hurriedly went to her room. On reaching her Hostel, she called up her friend Dev Kumar Barman and narrated the occurrence, who told her to keep calm and assured that they would complaint the next day to the authorities. On the next day, they met DSW who assured them that he would terminate Arvind. Thereafter, she decided to make complaint to GSCASH Committee and higher authorities of the University against Arvind. Feeling dissatisfied on account of in-action of the authorities against the accused, she lodged the FIR. Investigation was carried out and on conclusion of investigation, police report under section 173 (2) of Cr.P.C was submitted before the competent court.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 05.12.2019 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the

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sentence already undergone by the petitioner as has already undergone a period of 04 months and 26 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 the learned trial Court and has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been partly 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

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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 lodged on 20.03.2018 and the petitioner has been suffering the agony of trial since the last 06 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 04 months and 12 days out of total sentence of 02 years 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.

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

(i) The judgment dated 02.08.2021 passed by the learned Additional Sessions Judge, Bathinda upholding the judgment of conviction is upheld, however, the order of sentence dated 05.12.2019 is modified to the extent that the total sentence of simple imprisonment for

02 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 1000/- imposed upon the petitioner is enhanced to Rs. 10000/-. 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.

July 17, 2024

Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No