

**CRR-2645-2019 (O&M)****1****918 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-2645-2019 (O&M)
Date of Decision: 27.09.2024****SUNIL KUMAR @ SONU****.....Petitioner****Versus****STATE OF HARYANA****.....Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Sahibjeet Singh Sandhu, Advocate (Amicus Curiae)
for the petitioner.****Mr. Vikas Bhardwaj, AAG Haryana.************HARPREET SINGH BRAR, J. (ORAL)**

1. The present revision is preferred against the judgment dated 12.09.2019 passed by the learned Additional Sessions Judge, Kurukshetra whereby the judgment of conviction and order of sentence dated 14.01.2016 passed by the Judicial Magistrate Ist Class, Kurukshetra has been upheld.

2. FIR No. 178 dated 03.06.2013 registered under Sections 354, 294 and 509 of Indian Penal Code at Police Station Shahbad, in the present case was registered on the statement of complainant made on 03.06.2013. Brief facts of the FIR(supra) was that on 03.06.2013 at about 7:00 PM, complainant alongwith Sonia daughter of Mahinder was coming from the side of Deepak Vihar scissor sound and when they reached near Dhindsa Clinic, near Devi Mandir Chowk, Shahabad, the accused namely Sunil Kumar who was already present there asked her to sit on his motorcycle but she refused, upon which he caught hold her hand and started teasing her. She made noise, upon which

people from the neighborhood gathered there and then said boy ran away from there. She further stated that at that time his brother Bhushan had also come on the spot. On the basis of aforesaid allegations, the FIR of the present case was registered and the investigation was initiated.

3. The learned trial Court, after assessing the material on record, held the petitioner guilty vide judgement dated 14.01.2016 and awarded the following sentence vide order of even date on quantum of sentence: -

Offence	Sentence
Section 354 of IPC	Rigorous imprisonment for one year with fine of Rs. 500/- and in default of payment of fine, further awarded rigorous imprisonment for one month.
Section 509 of IPC	Simple imprisonment for six months with fine of Rs. 500/- and in default of payment of fine, further awarded simple imprisonment for fifteen days.

4. Aggrieved by the same, the convict preferred an appeal before the lower Appellate Court, which was dismissed vide judgment dated 12.09.2019.

5. Case was called twice, but there was no representation on behalf of the petitioner. In view thereof, Mr. Sahibjeet Singh Sandhu, Advocate (PH-2802-2023 M.No. 84279-02113) is appointed as *amicus curiae* in the present case, to assist this Court.

6. Learned counsel for the petitioner assails the judgments of the learned Courts below on the grounds that they wrongly and erroneously convicted the petitioner. The learned Courts below have failed to appreciate the fact that there was clear motive on the part of the complainant to implicate the petitioner as there was an ongoing dispute between the families of the petitioner and the complainant. Further, there is nothing substantial in the allegations leveled in the FIR which could reasonably be termed as outrageous



the modesty of a woman. Thus, the impugned judgments have been passed in hastily without properly appreciating the arguments advanced by the petitioner. Lastly, as per the case set up by the prosecution, a lot of passersby had gathered at the spot of the occurrence, however, no independent witness was joined in the investigation and examined during the course of trial.

7. 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. However, he could not controvert the fact that the petitioner is not involved in any other case.

8. I have heard learned counsel for the parties and perused the paper book with their able assistance. A perusal of the judgment of conviction passed by the trial Court and the lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. However, the petitioner was only 20 years old at the time of his conviction and has his whole life ahead of him. The FIR in the present case was registered on 03.06.2013. The petitioner has faced the agony of a protracted trial, which has lasted for approximately 11 years. As per his custody certificate, there are no other criminal cases pending against him. Accordingly, this Court is of the opinion that it would be in the interest of justice, if this Court takes a lenient view of the matter given the gravity of the



offence and the fact that the petitioner has reformed and intends to live his life as a law-abiding citizen.

9. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in **Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in **Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

10. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Kurukshetra awarding a substantive sentence of one year under Sections 354 and 509 of IPC to the

petitioner is upheld, however, having regard to the fact that the petitioner has no criminal antecedents, this court is inclined to give them the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, he is ordered to be released on probation of good conduct on furnishing a personal bond of Rs. 10,000/- each with a surety each of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of one year, to the satisfaction of the concerned trial court within a period of two weeks. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fail to comply with the said directions or commit breach of the undertaking given by him, he shall be called upon to undergo the sentence imposed upon him by the learned Additional Sessions Judge, Kurukshetra.

11. High Court Legal Services Committee is directed to pay the remuneration to the Amicus Curiae as per rules.

12. With the aforesaid directions, the instant petitions stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

27.09.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No