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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-34018-2019 in/and
CRR-2895-2019
Date of decision: 06.08.2024

Kulwant Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Param Preet Singh Brar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

CRM-34018-2019

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 26 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 26 days in filing the present revision petition is hereby condoned.

CRR-2895-2019

1. This revision petition has been preferred against the judgment dated 08.07.2019 passed by the learned Additional Sessions Judge, Faridkot, vide which judgment of conviction and order of quantum of sentence dated 02.03.2017 passed by the learned Judicial Magistrate 1st Class, Faridkot, in FIR No.186 dated 10.07.2013 under Sections 354(D) of IPC and Section 67 of I.T. Act registered at Police Station City Faridkot, has been upheld.



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2. The petitioner was convicted and sentenced under Section 354-D of IPC and was ordered to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- along with default mechanism.

3. Brief facts of the case are that the complainant, namely, Parveen Rani who is 85% handicap and working as computer-operator at DC Office in Fard Centre, Faridkot made a statement before the ASI Sukhdarshan Kumar, Investigating Officer, that from 29.06.2013, some unknown person called her from different mobile numbers on her mobile phone and used indecent/filthy language, due to which she used to disconnect her phone. The said unknown person used to tease her by calling her. When she disclosed the matter to her father, he made call on the incoming numbers but no one received the call. The matter was reported to concerned police station, on which formal FIR was registered against the accused person.

4. The petitioner was convicted vide judgment dated 02.03.2017 by the learned trial Court, which has also been upheld by lower appellate Court vide judgment dated 08.07.2019.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 02.03.2017 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 more than 06 months and is not involved in any other criminal activity.

6. Per contra, learned State counsel opposes the prayer of the petitioner, as the 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.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. In ***Deo Narain Mandal Vs. 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, the 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 Vs. 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.



9. 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. 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.

10. The FIR in the present case was lodged on 10.07.2013 and the petitioner has been suffering the agony of trial since the last 11 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 dated 05.08.2024, the petitioner is not involved in any other case and has undergone actual sentence of more than 06 months, out of total sentence of 02 years in the instant case.

11. 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.

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

- (i) The judgment dated 08.07.2019 passed by the learned Additional Sessions Judge, Faridkot, affirming the judgment of conviction is upheld, however, the order of sentence dated 02.03.2017 is modified to the extent that the sentence of rigorous imprisonment for two years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs.5,000/- imposed upon the petitioner by the learned trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the amount of fine in the learned 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 rigorous imprisonment for one month.

13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

06.08.2024
Neha

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