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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2109-2024(O&M)
Date of decision: 28.10.2024

Gurbhinder Singh

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.K. Saini, Advocate for the petitioner.
Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 11.10.2024 passed by learned Additional Sessions Judge, Fatehgarh Sahib, vide which, judgment of conviction and order of sentence dated 01.04.2023 passed by learned Judicial Magistrate Ist Class, Fatehgarh Sahib, in case stemming from FIR bearing No.231 dated 18.12.2019 registered under Sections 354-D, 341, 506 IPC at Police Station Fatehgarh Sahib, has been upheld. The petitioner was sentenced as under:

Offence	Sentence
354-D IPC	Simple imprisonment for 6 months and a fine of Rs. 500/- in default of which, simple imprisonment for 2 months
341 IPC	Simple imprisonment for 1 month
506 IPC	Simple imprisonment for 1 month
All the sentences shall run concurrently.	

2. The case set up by the prosecution is that on 08.12.2019, the prosecutrix was going to Government Middle School, Bahadurgarh, where she works as a cook for mid-day meal. The petitioner-accused followed her from village and stopped her. He threatened to kill her if she did not agree to marry



him. The petitioner stalked her daily and insisted on marrying her. The prosecutrix did not report the matter for the sake of her honour but eventually decided to file FIR(supra).

3. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 01.04.2023 by the learned trial Court. Aggrieved by the same, the petitioner preferred an appeal which was dismissed by the learned lower Appellate Court vide judgment dated 11.10.2024.

4. Learned counsel for petitioner, at the outset, submits that he is not assailing the impugned judgment of conviction dated 01.04.2023 on merits and restricts his prayer to modification of the order of sentence dated 01.04.2023 to the sentence already undergone by the petitioner. He further submits that the petitioner has already undergone custody of 16 days.

5. *Per contra*, learned State counsel opposes the prayer of petitioner as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the same has also been upheld by the learned lower Appellate Court. As such, the petitioner does not merit any leniency.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner has undergone custody of 16 days out of the sentence of 6 months imposed upon him. 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 petitioner has not assailed the judgment of conviction on merits, rather, he has



restricted his prayer only qua modification of quantum of sentence.

7. A perusal of the custody certificate indicates that the petitioner was also convicted in a case stemming from FIR no. 120 dated 10.07.2014 registered under Section 354 IPC and Sections 11 and 12 of the Protection of Children against Sexual Offences Act, 2012 at Police Station Fatehgarh Sahib, vide judgment dated 02.05.2016 passed by the learned Special Judge, Fatehgarh. The petitioner was sentenced to rigorous imprisonment of 4 years for offence under Section 354 IPC, out of which he has already undergone 4 months. However, he was released on bail on 17.09.2016 in view of order dated 14.09.2024 passed in CRA-S-2232-SB-2016 by this Court.

8. The FIR(supra) in the present case was lodged on 18.12.2019 and petitioner has been suffering the agony of protracted trial for about 5 years. Learned counsel for the petitioner submits that since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per custody certificate, he has undergone actual sentence of 16 days out of total sentence of 6 months, in the instant case.

9. A two Judge Bench of the Hon'ble Supreme Court in **Mohd. Giasuddin vs. State of AP, AIR 1977 SC 1926**, speaking through Justice V.R. Krishna Iyer, has observed as under:-

"Crime is a pathological aberration. The criminal can ordinarily be redeemed and the state has to rehabilitate rather than avenge. The sub-culture that leads to antisocial behaviour has to be countered not by undue cruelty but by re-culturization. Therefore, the focus of interest in penology in the individual and the goal is salvaging him for the society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today vies sentencing as a process of reshaping a person



who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of a social defence. Hence a therapeutic, rather than an 'in terrorem' outlook should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries."

In ***Deo Narain Mandal v. 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.

10. 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 the conduct of



the accused to strike a balance between the efficacy of law and the chances of reformation of the accused. Faced with a similar situation, a Co-ordinate Bench of this Court in *Raj Pal vs. State of Haryana* has reduced the sentence imposed upon the convict, in spite of the fact he was previously convicted in a similar case as well. It was opined that where it is merited, the offender must be given an opportunity to reform.

11. In view of the discussion above, this Court finds it appropriate to grant an opportunity to reintegrate into the society as a productive, law abiding citizen, by reducing his sentence to the duration already undergone by him. It is only when offenders are given such chances that they can be truly reformed and rehabilitated.

12. Accordingly, the present revision petition is disposed in the following terms:

- (i) The judgment of conviction dated 01.04.2023 passed by the learned trial Court and the judgment dated 11.10.2024 by the learned lower Appellate Court are upheld.
- (ii) However, the order of sentence dated 01.04.2023 passed by the learned trial Court is modified to the extent of the custody already undergone by him.
- (iii) The fine of Rs. 500/- imposed upon the petitioner is increased to Rs. 10,000/-. 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 rigorous imprisonment for one month.

28.10.2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |