



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

101

CRA-S-1284-SB-2004

Date of Decision: 25.03.2025

HARBANS LAL

.....Appellant

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Abhilaksh Grover, Advocate
for the appellant.

Mr. R.K.S. Brar, Addl. AG, Haryana.

DEEPAK GUPTA, J.

Appellant was convicted by the Court of learned Sessions Judge, Faridabad vide judgment dated 01.06.2004 under Section 354 IPC, in a case arising out of FIR No.713 dated 27.06.2003, registered at Police Station NIT, Faridabad under Section 376 read with Section 511 IPC.

2. The victim was a minor girl aged two and a half year, who was attempted to be raped upon by the appellant, but ultimately trial Court found that case was covered under Section 354 IPC. Vide order dated 01.06.2004, the appellant was sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of ₹5,000/- with default sentence of 03 months rigorous imprisonment for committing the offence under section 354 IPC.

3. Against the aforesaid conviction and the order to sentence, the present appeal has been filed.

4. Today, statement is made by learned counsel for the appellant that appellant is 82 years of age and is suffering from various ailments. He has also placed on record various medical documents to support this contention. Learned counsel has further made a statement so as to withdraw the appeal against the conviction, but with a further prayer to modify the impugned order of sentence



and by directing the appellant to undergo sentence for the period already undergone by him.

5. Learned State counsel has opposed the prayer by pointing out towards the nature of crime, but does not dispute the factual position.

6. The custody certificate placed on record would reveal that appellant has already undergone actual custody period of 03 months and 05 days. At the time of recording of the FIR in 2003, he was aged 61 years, which means that as of now, he is 83 years of age. Custody certificate further reveals that appellant is not involved in any other criminal case.

7. Apart from above, counsel for the appellant has placed on record various medical reports revealing that appellant is suffering from diabetes and had brain stroke. He had to be admitted in Hospital as he had the complaints of sudden onset of left sided weakness or numbness. Learned counsel for the appellant submits that appellant is almost half paralysis state and stays bed ridden. Even learned State counsel along with the verification report submitted by SHO Police Station NIT, Faridabad has placed on record the report submitted by Municipal Councilor, as per which due to his advanced age, the appellant always remains ill.

8. Although considering the nature of offence committed by the appellant, he does not deserve any leniency, but at the same time, the Court cannot ignore the advanced age of the appellant, who is now 83 years of age, and his extremely bad health. It is also noticed that he is not involved in any other criminal case. His sentence was earlier suspended by this Court in July, 2004 and thus, he is now outside the Jail for the last more than 21 years.

9. Having noticed all the aforesaid facts and circumstances, it is felt that it will not be in interest of justice to send the appellant behind the bars to carry out the remaining period of sentence.

10. As such, considering statement made by learned counsel for the appellant, the appeal against conviction is hereby dismissed as withdrawn. However, the prayer made by learned counsel for the appellant to modify the



order of sentence is accepted, by sentencing the appellant to undergo rigorous imprisonment for period already undergone by him. As far as the fine is concerned it will remain the same.

Disposed of.

25.03.2025

(DEEPAK GUPTA)
JUDGE

<i>Pry</i>	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No