

**467 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRA S-4061-SB of 2015.****Decided on : 19.10.2015.****Rajinder Singh @ Randhey****...Appellant****Versus****U.T. Chandigarh****...Respondent****CORAM : Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. Maninder Singh, Advocate for
Mr. B.S. Aulakh, Advocate,
for the appellant.

Mr. A.S. Sullar, Advocate,
for UT Chandigarh.

JITENDRA CHAUHAN, J.

This appeal is directed against the judgement of conviction dated 20.3.2015 and the order of sentence dated 24.3.2015 passed by the Additional Sessions Judge, Chandigarh vide which the accused-appellant was convicted and sentenced as under:-

Offence	Sentence	Fine	In default
411 IPC	RI for 6 months	Rs.500/-	SI for 15 days
413 IPC	RI for one year	Rs.1000/-	SI for 1 month

Both the sentences were ordered to run concurrently.

The facts of the case as noticed in the impugned judgment are as under:-

“The facts germane from the report under Section 173 of the Code of Criminal Procedure are that on 02.11.2014, one Mohan Paul Chohan presented a

written complaint before ASI Tikka Singh regarding theft of his motor cycle bearing No. HP-35-1297 make Apache RTR 160. Mohan Paul Chohan alleged in his complaint that presently he is residing at House No. 385/3, Pipliwala Town, Manimajra, Chandigarh on rent. On 02.10.2014, he parked his motor cycle bearing No. HP-35-1297, outside his house and left for his native village at Himachal Pradesh. However, when he came back from his village, he found his motor cycle was missing and same was stolen by some unknown person. On the basis of this complaint, formal FIR (Ex.P-14) was registered and investigation was set into motion. Rough site plan (Ex.P-15) of the place of occurrence was prepared. During investigation, accused was apprehended along with the above said stolen motor cycle on 16.11.2014, accordingly he was arrested and personally searched vide memo dated 16.11.2014(Ex.P-3). Motor cycle in question was also taken into possession through separate memo (Ex.P-5). During interrogation of the accused, it was transpired that the accused was habitual offender and was involved in several other criminal cases.”

The statements of the witnesses under Section 161 of Code of Criminal Procedure were recorded. After completion of investigation, challan was presented in the Court.

After complying with the provisions of Section 207 Cr.P.C., the case was committed to the Court of Session.

Charges under Sections 411 and 413 IPC were framed against the accused. The accused pleaded not guilty and claimed trial.

In order to bring home the charge, the prosecution examined as many as 5 witnesses, namely, PW-1 Mohan Paul Chohan - complainant, PW-2 C. Sonu, PW-3 C. Jaswinder Singh, PW-4 ASI Tikka Singh, Investigating Officer, PW-5 HC Sakattar Singh.

The statement of accused under Section 313 Cr.P.C was recorded, wherein, he denied each and every incriminating substance appearing against him in the prosecution evidence.

No evidence in defence was led.

Learned trial Court, after appraisal of the evidence, vide the impugned judgment and the order, convicted and sentenced the accused as narrated above.

Feeling dis-satisfied with the impugned judgment and the order, the present appeal has been directed, which was admitted on 21.9.2015.

Learned counsel for the appellant states that the

appellant has undergone sentence of 11 months and 22 days including

remissions out of total sentence of one year and he does not press the appeal on merits and states that a lenient view be taken in the matter of sentencing. He further states that the appellant is the sole bread winner of the family.

As per the custody certificate dated 14.10.2015 filed by Deputy Superintendent, Model Jail, Chandigarh, the appellant has undergone sentence of 11 months and 22 days which is close to the entire period of sentence. In view of the sentence undergone and the mitigating circumstances mentioned above, the Court is inclined to accept the prayer made by the learned counsel for the appellant. This Court is of the opinion that the ends of justice would be sufficiently met in case the prayer made by the learned counsel for the appellant is allowed. Consequently, the appeal is dismissed on merits but the sentence of the appellant is reduced to the period already undergone by him. However, the sentence of fine shall remain intact. The appellant be released forthwith, if not required in any other case.

19.10.2015.
SN

(JITENDRA CHAUHAN)
JUDGE