

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

(318)

CRR No.1401 of 2006

Decided on: August 19, 2015.

Asru

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. R.K. Lamba, Advocate,
for the petitioner.

Mr. C.S. Bakshi, Addl. A.G., Haryana.

M.M.S. BEDI, J (ORAL)

This revision petition has been preferred against order dated 06.07.2006 passed by Additional Sessions Judge, Faridabad, dismissing appeal of the petitioner against the judgment of conviction dated 27.04.2005 and order of sentence dated 28.04.2005 recorded by the Special Environment Court, Faridabad, whereby the petitioner was convicted and sentenced as follows:

- (1) Under Section 51 of the Wild Life (Protection) Act, 1972, to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/-; and
- (2) Under Section 285 IPC, to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/-.

Co-accused Ruddar who had been dealt with in the same manner had been released on probation by the Appellate Court.

Learned counsel for the petitioner has submitted that the petitioner is not a previous convict.

After hearing learned counsel for the petitioner as well as learned State counsel, I am of the opinion that both the Courts have arrived at concurrent finding that the petitioner had intentionally killed a national bird

peahen. Three persons had escaped from the spot, who had been given benefit of doubt whereas the petitioner along with Ruddar was caught on the spot.

It has been submitted by learned counsel for the petitioner that the petitioner has been facing agony of criminal proceedings for the last 16 years and that he does not have a previous record of conviction as such he may be granted the concession of probation.

Taking into consideration all the facts and circumstances of the case, I am of the opinion that grant of probation in the present case will not be expedient, in the interest of justice. However, the ends of justice would be met, in case, the sentence of imprisonment awarded to the petitioner is reduced to same extent.

The sentence of imprisonment under both the heads is reduced and the petitioner is ordered to undergo rigorous imprisonment for three months each for both the offences under Section 51 of the Wild Life (Protection) Act, 1972 as well as for offence under Section 285 IPC, both the sentences to run concurrently. The sentence of fine under Section 51 of the Wild Life (Protection) Act, 1972 is enhanced to Rs.20,000/- and under Section 285 IPC, the sentence of fine is enhanced to Rs.10,000/-. In case of default in payment of enhanced amount of fine, the petitioner will further undergo simple imprisonment for one month. The period of sentence already undergone and fine already deposited will be set off against the one awarded hereinbefore. The petitioner will surrender before the Special Environment Court, Faridabad on 19.09.2015 at 10:00 A.M to undergo remaining sentence of imprisonment and fine.

(M.M.S. BEDI)
JUDGE

August 19, 2015

harsha