

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

CRR-1107 of 2007 (O&M)

Date of decision: 07.09.2015

Dhanna Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ankur Malik, Advocate for the petitioner.

Mr. Arun Luthra, AAG, Haryana
for the State.

Jitendra Chauhan, J.

By filing the present criminal revision, the petitioner has assailed the judgment dated 23.05.2007, vide which, the learned Addl. Sessions Judge, Panipat, upheld the judgment dated 10.03.2006, passed by the learned Chief Judicial Magistrate, Panipat, whereby, the petitioner was convicted under Section 379 of the Indian Penal Code (for short 'IPC') and sentenced to undergo RI for a period of six months and to pay fine of Rs. 1000/- and in default of payment of fine, to further undergo simple imprisonment for 15 days.

The prosecution case against the petitioner is that on 17.09.2001, complainant Chander Bhan was present at platform No.3 of railway station, Panipat to board a train for going to Jind. As soon as the train arrived at platform and he moved to board the same, he felt some movement in the pocket of his shirt. On checking, he found that his pocket had been picked. He turned back and found one young boy moving swiftly. He raised alarm and said boy was nabbed by ASI Sultan Singh. From the search of the petitioner, stolen articles were recovered from his right fist. On the basis of statement of complainant Ex.PA, an FIR Ex.PC was drawn by SI Shiv Kumar.

On commitment, the accused/petitioner was charged sheeted under Section 379 IPC, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Chander Bhan; PW-2 SI Sultan Singh and PW-3 Tara Chand.

The statements of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication. However, he did not not led any evidence in defence.

After hearing the Public Prosecutor for the State, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/petitioner, as stated hereinbefore.

Feeling aggrieved against the judgments of both the

Courts below, the instant revision was filed by the accused/petitioner which was admitted on 17.07.2007. The sentence of accused/petitioner was suspended on 06.08.2007.

The learned counsel for the petitioner does not press the revision petition on merits and has submitted that the petitioner is the sole bread winner of his family. He has further submitted that the petitioner has six children and old aged parents and he is the only person to look after them. The petitioner has never misused the concession of bail during the trial as well as during the pendency of the present revision petition. He is a first offender and has already undergone 26 days out of substantive sentence of six months. Thus, the learned counsel prays for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposed the prayer of petitioner/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and has carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the prosecution. There is no flaw in the unassailed judgment of conviction. There is no merit in this present revision petition which is dismissed on merits.

In **Ashi Devi Vs. State (NCT of Delh) 2014(3) RCR**

(Criminal) 259, it has been held as under:-

“We accordingly direct that the sentence of 3 years rigorous imprisonment for the conviction under Section 379 IPC and one year rigorous imprisonment for the conviction under Section 448 IPC imposed on appellant No.1 Smt. Ashi Devi shall stand reduced to the period already undergone by her.”

The petitioner has suffered agony of a protracted trial. It is one of the mitigating circumstance to treat him leniently. The petitioner is stated to be first time offender. He has already undergone 26 days, out of the substantive sentence of six months. In view of the above, the prayer made on behalf of the petitioner is accepted. The sentence awarded to the petitioner is ordered to be reduced to the period already undergone, in view of ratio of law laid down in Ashi Devi and others Vs. State (NCT of Delhi), 2014(3) RCR (Criminal) 259.

Ordered accordingly.

However, the fine is enhanced to ₹25,000/- to be paid within four months after the receipt of certified copy of the order. It is made clear that if the enhanced amount of fine is not paid within the stipulated period, the present revision petition shall be deemed to be dismissed without any notice.

07.09.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE