

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Crl. Revn. No. 1718 of 2006 (O&M)
Date of decision : January 19, 2015

Parbhat SinghPetitioner
Versus

State of PunjabRespondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Goraya, Advocate for the petitioner.

Mr. Gurveer Sidhu, AAG, Punjab.

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RITU BAHRI, J (Oral)

Present petition has been filed against the judgment of conviction and order of sentence dated 25.07.2006 passed by the Additional Sessions Judge (Adhoc), Fast Track Court Gurdaspur, vide which the appeal against the judgment dated 10.09.2002 passed by the Chief Judicial Magistrate, Gurdaspur (hereinafter referred to as "the trial Court') was dismissed.

The trial Court vide judgment dated 10.09.2002 convicted the accused-petitioner under Section 411 IPC and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

As per the prosecution story, on 29.05.1999, SI Dev Dutt/SHO, Police Station and some other officials were

present at Tango Shah Chowk at turning point, Tangoshah, in connection with routine patrol duty. At that place, Naib Subedar Pritam Singh of 21 Sub Area Provost Unit made a written complaint Ex PW2/A to the effect that some drivers of Army vehicles are selling petroleum products outside town of Pathankot. On 29.05.1999, the complainant along with Naik (Military Police), SD Sharma, left for checking of vehicles from his units towards Taragarh. At about 10.30 AM, the complainant and his associate spotted a three tonner Military vehicle bearing No. 97D-10609 P, driven by Sant Ram Sharma, a civilian driver, employed by S 21,ASC, Battalion (Civil BT). On being investigated, the driver of the vehicle told him that he is coming back after selling 200 litre diesel to the present petitioner. The complainant took accused Sant Lal Sharma with him and found accused/petitioner standing outside his home with 200 litre drum filled with diesel, lying near him. On being enquired, the petitioner told that he purchased diesel from Sant Lal Sharma, for a sum of Rs.750/-.The complainant took both the accused in his vehicle and handed over them to police. The Investigating Officer made endorse Ex PW5/A and left with the complainant and other police officials to the house of the present petitioner and recovered the drum containing 200 litre diesel, which turned out to be 199 litres, 250 mls litre.

After completion of investigation, challan was

presented against the accused on 28.01.2000. Accused Sant Lal died in the course of trial, as such, proceedings against him were ordered to be abated, vide order dated 22.09.2000.

Charges were framed under Sections 411 IPC against the accused-petitioner, to which, he pleaded not guilty and claimed trial, vide order dated 16.12.2000.

In order to prove its case, the prosecution examined as many as five witnesses and thereafter, the evidence of the prosecution was closed.

Statement of accused under Section 313 Cr.P.C was recorded wherein entire incriminating evidence appearing against him was put to him, however, he denied the same.

The trial Court after going through the entire evidence led by the prosecution, convicted and sentenced the accused-petitioner in the aforesaid terms.

Aggrieved by the aforesaid judgment, the accused-petitioner preferred an appeal which was dismissed by the Additional Sessions Judge (Adhoc), Fast Track Court Gurdaspur.

Learned counsel for the petitioner, at the outset, does not challenge the order of conviction on merits and restricts his prayer to the quantum of sentence.

Having examined the impugned judgments, no

illegality, much less irregularity, has been found therein warranting interference by this Court. Accordingly, they are upheld. However, a lenient view can be taken on the quantum of sentence of the petitioner.

As per the custody certificate filed on record, petitioner Parbhat Singh has undergone imprisonment for a period of 01 month and 22 days as on 18.01.2015. He has not misused the concession of bail during trial and is not facing any other criminal case.

FIR was registered on 29.5.1999. The petitioner has been facing a protractive trial proceedings since 1999 i.e for almost 15 years. Petitioner has already suffered the agony of protracted trial, spinning over a period of time. Learned counsel prays that a lenient view be taken against the petitioner. He further submits that keeping in view the facts and mitigating circumstances of the petitioner, some leniency be shown against the petitioner in the matter of sentence. The sentence of the imprisonment awarded to the petitioner is reduced to the period already undergone. However the amount of fine is enhanced from Rs. 500/- to Rs.5,000/-.

With the above modification in the matter of sentence, the criminal revision is dismissed on merits.

January 19, 2015
G Arora

(RITU BAHRI)
JUDGE