

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR NO. 717 OF 2006 (O&M)
DECIDED ON : 09.01.2015

Karambir

...Petitioner

versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Rajesh Bansal, Advocate,
for the petitioner.

Mr. Rajesh K. Sheoran, Addl. AG, Haryana.

K. C. PURI, J. (ORAL)

Challenge in this revision petition is to the judgment dated 07.03.2006 passed by Sh. S.K. Goyal, Additional Sessions Judge, Panipat vide, vide which the appeal filed by the accused/ petitioner against the judgment of conviction and order of sentence dated 15.03.2004 passed by Ms. Anshu Shukla, Chief Judicial Magistrate, Panipat, convicting the petitioner under Section 39 of the Indian Electricity Act (in short the Act), was dismissed.

Shorn off the brief summary of case of prosecution is that at instance of SHO, Police Station Model Town, Panipat, the petitioner was put to stand trial for an offence punishable under Sections 379 IPC and 39 of the Act with the allegations that on 23.05.1998 complainant-Naresh Chand Gupta, SDO, HSEB, got his statement recorded to the effect that the petitioner was found committing theft of electric energy by tampering with the meter seals. It was further alleged that meter bearing account No.

NB3-973 was installed in the premises of M/s Ajay Enterprises, village-Garhi, Sikanderpur and at the time of raid, seals of meter were tampered and the accused was committing theft of the electricity and in this manner, the accused has caused loss of Rs. 85,554/- to the department. On the basis of the statement, formal FIR was recorded and investigation was carried out. After completion of investigation, challan under Section 173 Cr.P.C was present against the accused.

On presentation of challan, copies of same were supplied to the accused free of costs, as envisaged under Section 207 Cr.P.C.

Thereafter, charge under Sections 379 IPC and 39 of the Act was framed against the accused/petitioner, to which the accused pleaded not guilty and claimed trial.

In order to bring home the guilt of accused, prosecution examined Naresh Chand Gupta, AEE (complainant) as PW-1, Nafe Singh as PW-2, SI-Om Parkash as PW-3, ASI-Balwant Singh as PW-4, Virender Singh, AEE as PW-5 and ASI-Ram Kumar as PW-6 and closed the evidence, after tendering certain documents.

The accused was examined under Section 313 Cr.P.C, wherein all the incriminating evidence was put to him, to which he denied and pleaded innocence and false implication.

The accused was called upon to lead defence evidence and he has not chosen to lead any evidence in defence, and thereafter, closed the evidence.

The learned trial Court, after appraisal of the evidence, found the accused guilty for offence punishable under Sections 39 of the Act and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 1000/-. In default of payment of fine, to further undergo simple imprisonment for a period of fifteen days..

Feeling dissatisfied with the above said judgment of conviction and order of sentence dated 15.03.2004 passed by Ms. Anshu Shukla, Chief Judicial Magistrate, Panipat, accused-petitioner-Karambir has preferred the appeal before Additional Sessions Judge, Panipat. Vide Judgement dated 07.03.2006, passed by Sh. S.K. Goyal, Additional Sessions Judge, Panipat, the appeal was dismissed.

The revisionist has impugned the above said judgment dated 07.03.2006, passed by Sh. S.K. Goyal, Additional Sessions Judge, Panipat and judgment dated 15.03.2004, passed by Ms. Anshu Shukla, Chief Judicial Magistrate, Panipat.

Learned counsel for the petitioner has not challenged the conviction on merits. Otherwise also, the concurrent finding of the facts is based upon legal evidence and as such, the conviction of the petitioner under Section 39 of the Act stands affirmed.

Regarding quantum of sentence, learned counsel for the petitioner has submitted that the petitioner is facing trial since 1998 i.e. for the last more than 16 years. He has further contended that the petitioner has already undergone incarceration for a period of three months and three days out of the substantive sentence of six months. He has also contended that fine awarded by the trial Court has already been paid. So, the prayer has been made for taking lenient view regarding quantum of sentence.

The prayer has been opposed by the State counsel.

I have carefully considered the submissions made by both the parties and have gone through the records of case.

As per custody certificate, the petitioner has already undergone incarceration for a period of two months and one days as on 06.12.2014 and even thereafter, he is stated to be in custody in compliance

to the non-bailable warrants issued by this Court. In this manner, the petitioner has already undergone incarceration for a period of three months and three days out of the substantive sentence of six months. As per conviction slip, the petitioner is not involved in any other criminal case. The case relates to more than 16 years back. The petitioner has given his age as 38 years in the statement recorded under Section 313 Cr.P.C. on 11.11.2003.

So, considering all the above circumstances, the sentence of the petitioner stands reduced to the period already undergone. The petitioner is stated to be in custody. He be released forthwith, if not required in any other case.

A copy of the order be conveyed to the trial Court for compliance.

JANUARY 09, 2015
dk kamra

(K. C. PURI)
JUDGE