

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

Crl. Revision No. 149 of 2015(O&M)

Date of Decision: January 16, 2015.

Ram Avtar

..... PETITIONER (s)

Versus

State of Haryana and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anurag Jain, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Petitioner has filed this revision petition challenging judgment of conviction and order of sentence dated 26.11.2013 passed by the learned Judicial Magistrate First Class, Hisar which has been upheld by the learned Additional Sessions Judge, Hisar vide judgment dated 22.12.2014. Petitioner has been convicted and sentenced to undergo rigorous imprisonment for one year, besides, pay a fine of ₹1,000/- in case of default thereof, to further undergo simple imprisonment for fifteen days for the offence punishable under Section 193 IPC.

As per the prosecution case, petitioner had deposed in FIR No.166

dated 02.04.1992, under Section 302/34 IPC, police station City Hisar that three persons namely Jagira son of Pyara Singh, Inder and Wilson had committed murder of one Mindi on 02.04.1992. In the said proceedings accused Jagira was absent and evidence was recorded against him while proceeding under Section 299 Cr.P.C. After his arrest, the petitioner on 28.01.2002 was examined again on oath as Prosecution Witness No.3 in case bearing No.38/SC/ST dated 30.7.1998/27.5.99/RBT titled as 'State v. Jagira @ Jagir Singh'. Petitioner however contradicted his earlier statement to the effect that he had witnessed the murder of deceased – Mindi but same was committed by Inder and Wilson only and not by Jagira son of Piara Singh thereby giving a clean chit to him whereas in the earlier version he was specifically nominated as an accused by him. Petitioner, in fact, stated that the said Jagira was not present at the time of the alleged occurrence.

The petitioner was proceeded against for the commission of offence punishable under Section 193 IPC to which he pleaded not guilty and claimed trial. Learned trial court after appraisal of the evidence convicted the petitioner for the offence punishable under Section 193 IPC vide judgment dated 26.11.2013 and sentenced him to undergo rigorous imprisonment as aforementioned. The petitioner preferred appeal against the said judgment which has also been dismissed by the learned Additional Sessions Judge, Hisar vide judgment dated 26.12.2014.

Learned counsel for the petitioner vehemently argues that the contradictory statement made by the petitioner has been sufficiently explained in the statement of petitioner under Section 313 Cr.P.C. The petitioner has

explained that he was under immense pressure of the police and, therefore, he had named Jagira to be an accused at the first instance on 28.10.1994. His conscious had awakened on 28.01.2002 due to which he deposed the true facts. It is further submitted that despite the subsequent statement by the petitioner, accused Jagira stands convicted by the learned trial court and his appeal has also been dismissed by this Court, therefore, the subsequent statement made by the petitioner was of no effect. This fact has been ignored by the Courts. Therefore, the petitioner deserves to be acquitted.

I have heard learned counsel for the petitioner and gone through the file as well as the photocopy of the statement under Section 313 Cr.P.C. of the petitioner, which has been produced in Court today.

It is candidly admitted by learned counsel for the petitioner that no specific detail, whatsoever, has been mentioned in the said statement as to which police official pressurized or threatened him and at what point of time. There is no evidence of any other case being registered against Jagira to substantiate that he is a dreaded criminal whom the police wanted to be convicted.

A bare perusal of the facts of the case shows that the petitioner has been rightly convicted for the offence punishable under Section 193 IPC. The evidence on record amply displays that he has made absolutely contradictory statements for the reasons best known to him. There is no evidence worth the name that the petitioner had been pressurized or threatened by any police official and neither is there any evidence of the said accused Jagira being a dreaded criminal. The fact that accused Jagira stands convicted cannot improve the case of the petitioner. The fact that the petitioner had made contradictory statements,

has been duly proved by positive evidence before the trial court. Once the petitioner has deliberately chosen to depose falsely on oath, it is necessary that he should be proceeded against. It is not open to any person to take the process of court so lightly that totally contradictory statements are made on oath in this manner. Petitioner has displayed an audaciousness and a complete disregard to the solemnity of the proceedings, further compounded by his stand that as this statement has ultimately not affected the prosecution case, therefore, he be extended relief. Majesty of law has to be upheld and cannot be permitted to be lowered in this blatant manner.

When this Court was not inclined to interfere, learned counsel for the petitioner prays that keeping in view the facts and circumstances, the benefit of probation be extended to the petitioner. It is submitted that there is no other case pending against him. He is a poor dairy farmer. He has a dependent wife though his children are living separately. Custody of three weeks is enough of a lesson to the petitioner. He has faced a protracted trial since 21.01.2003.

Having heard learned counsel for the petitioner, I do not find any ground whatsoever to extend the benefit of probation to the petitioner. There is no extenuating circumstance which justifies grant of probation to him. The trial court has already adopted an extremely lenient and sympathetic view while sentencing the petitioner to undergo rigorous imprisonment for only one year.

This revision petition is dismissed.

January 16, 2015.
'om'

(**LISA GILL**)
JUDGE