

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1811 of 2015 (O&M)
Date of Decision:30.07.2015

Rishu Mehta @ Rishi

...Petitioner

Versus

State of Punjab

...Respondent

with

CRR No.1923 of 2015 (O&M)
Date of Decision:30.07.2015

Ajay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

- 1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
- 2. To be referred to the Reporters or not? Yes/No
- 3. Whether the judgment should be reported in the digest? No

Present: Mr. J.S. Rathi, Advocate
 for petitioner Rishu Mehta @ Rishi.

Mr. Pankaj Bali, Advocate
for petitioner Ajay Kumar.

Mr. Deep Singh, A.A.G. Punjab,
counsel for the respondent-State.

ANITA CHAUDHRY, J.

1. By this order, this court proposes to decide two revision petitions which have arisen out of the same FIR.

The petitioners Rishu Mehta @ Rishi and Ajay Kumar have challenged their conviction under Section 411 IPC in FIR No. 1 registered on 06.04.2010 at Police Station Nawan Graon, District SAS Nagar, Mohali. The Judicial Magistrate Ist Class, Mohali vide order dated 04.09.2014, convicted the petitioners and sentenced them to undergo rigorous imprisonment for a period of two years along with fine of Rs.200/- each for commission of offence under Section 411 IPC. In default of payment of fine, they were to undergo further imprisonment for a period of two days.

2. The convicts preferred an appeal which was partly allowed by the Addl. Sessions Judge, SAS Nagar, Mohali vide order dated 09.04.2015 and the sentence of petitioners was reduced to one year instead of two years. The petitioners were taken into custody to undergo the remaining part of sentence. Aggrieved by both the verdicts, present petition has been filed.

2. Notice of motion in both the petitions was issued on the limited question of quantum of sentence.

3. I have heard learned counsel for the petitioners as well as learned State counsel appearing for the State of Punjab.

4. The counsel for the petitioners contend that the petitioners are first offenders and had faced a protracted trial for the last more than four years as the incident is of April, 2010 and the petitioners had remained in custody for over 3½ months. Learned counsel for the petitioners further contend that during this period no similar incident had taken place and the sentence be reduced to the period already undergone.

5. The State counsel has opposed the prayer and submits that accused-petitioners had stolen the motorcycle from Chandigarh and during investigation another motorcycle was also recovered on the basis of disclosure statement suffered by them and the Courts below have already taken a lenient view and they do not deserve to be extended any leniency.

6. As the prayer made by the petitioners is restricted only to the sentence, therefore, the findings recorded by the Courts below convicting the petitioners are affirmed.

As regards the prayer of reduction of sentence is concerned, the petitioners were found in possession of a motorcycle which was not owned by them. They were apprehended by the police on 06.04.2010. The petitioners were convicted by the trial Court vide judgment dated 04.09.2014. Their appeal was partly allowed by the Addl. Sessions Court on 09.04.2015. The petitioners have remained in custody for more than 3½ months. They have faced

protracted trial for more than four years. The petitioners are not previous convicts and are first offenders. Considering the fact that the petitioners have been suffering the agony of this case for the last more than 4 years and they are the first offenders, I am of the view that ends of justice would be met if the sentence awarded to the petitioners under Section 411 IPC is reduced to the period already undergone.

7. Thus, partly allowing both the revision petitions, the sentence awarded under Section 411 IPC is reduced to already undergone. Fine is stated to have been paid.

With the above said modification, both the revision petitions are disposed of. Petitioners be released forthwith in this case, if not required in any other case.

(ANITA CHAUDHRY)
JUDGE

30.07.2015
'Sunil Sehgal'