

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

**Criminal Revision No.3123 of 2015(O&M)  
Date of Decision: October 31, 2015**

Mukesh

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr.Susheel Gautam, Advocate,  
for the petitioner.

Mr.Pawan Gaur, DAG, Haryana.

**Naresh Kumar Sanghi, J.**(Oral)

Challenge in the present criminal revision petition is to the judgment dated 24.07.2015 passed by learned Sessions Judge, Panipat, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 379, IPC, recorded by learned Judicial Magistrate Ist Class, Panipat, was dismissed after modification in the order of sentence.

On 25.08.2015, the following order was passed by this Court:-

*“Present: Mr.Susheel Gautam, Advocate,  
for the petitioner.*

*At the very outset, learned counsel for the petitioner*

*submits that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioner. However, he submits that the petitioner being a first offender, the sentence awarded by the Appellate Court is on higher side.*

*Notice of motion for 28.09.2015 with regard to quantum of sentence only”.*

Learned counsel for the State submits that the present criminal revision petition can be disposed of at this stage in view of the submissions of learned counsel for the petitioner. This Court is also of the considered opinion that in view of the contention of the learned counsel for the petitioner and the stand taken by learned counsel for the State, the present petition can be disposed of at this stage.

Since learned counsel for the petitioner has not disputed the order of conviction passed by learned trial Court and upheld by First Appellate Court, therefore, this Court does not intend to go in detail with regard to the factual aspects of the case. However, to link the present order, the material available on record has been perused and it is found that the allegation against the petitioner is that on 03.03.2007, Vinod Kumar (PW1) had parked his motorcycle bearing Registration No.HR-06M-4170 in front of his house at Panipat and after sometime he noticed that the petitioner was stealing the said motorcycle. On the hue and cry

raised by Vinod Kumar (PW-1), Rampal (PW-2) his neighbour arrived at the spot and apprehended the petitioner. The matter was reported to the police. After completion of the investigation, the charge-sheet was presented.

While relying upon the depositions of Vinod Kumar (PW-1) and Rampal (PW-2), learned trial Court held the petitioner guilty for the offence punishable under Section 379, IPC, and awarded rigorous imprisonment for two years. The appeal filed by the petitioner was dismissed after reducing the substantive sentence to rigorous imprisonment for one year. Dissatisfied with the judgments of both the Courts below, the petitioner has approached this Court by way of the present criminal revision petition but learned counsel for the petitioner has confined his submissions with regard to quantum of sentence only.

After going through the material available on record, this Court finds that the findings recorded by both the Courts below with regard to the conviction of the petitioner are well based and as such, learned counsel for the petitioner has correctly opted not to challenge the conviction of the petitioner. However, there appears to be substance in the submissions of learned counsel for the petitioner when he submitted that the petitioner is a first offender; he is the sole bread winner for his family; out of rigorous imprisonment for one year, the petitioner has suffered incarceration for approximately five months and that during trial

and appeal, the petitioner was granted bail but he did not misuse the said concession and that during his incarceration, the petitioner has earned remission of 15 days in the jail sentence which shows that he is in process of improving himself, therefore, some concession in substantive sentence can be extended to him.

Learned counsel for the State has produced the affidavit of the Deputy Superintendent, District Prison, Karnal, to show actual sentence suffered by the petitioner which is taken on record.

In view of the totality of the facts and circumstances of the case and the submissions put forth by learned counsel for the petitioner, the present petition is partly allowed. The substantive sentence of the petitioner is reduced to the period already undergone by him i.e approximately five months. The petitioner be set at liberty at once if not required in any other case.

**October 31, 2015**  
seema

**(Naresh Kumar Sanghi)**  
**Judge**