

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

CRR No.3171 of 2015 (O&M).
Decided on:-17.11.2015.

Surjit Singh @ Jimmy.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Present:- Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J.

Aggrieved against the judgment dated 29.7.2015 passed by learned Additional Sessions Judge, Amritsar whereby appeal against the judgment and order dated 27.8.2013 passed by learned Judicial Magistrate 1st Class, Amritsar was dismissed, the petitioner has filed the present petition.

An FIR No.14 dated 5.3.2010 under sections 379 and 411 IPC was registered at Police Station D-Division, Amritsar against the petitioner-accused. He was made to face trial for offences punishable under Sections 379, 411 and 473 IPC. However, learned trial Court vide judgment dated

27.8.2013 convicted the petitioner for an offence under Section 411 IPC and sentenced him to undergo rigorous imprisonment for a period of two years and a fine of Rs.500/-. In default of payment of fine, the petitioner was further required to undergo rigorous imprisonment for a period of two months.

Against the judgment of the trial Court, the petitioner preferred an appeal, but the same was dismissed. Considering the statement of the petitioner that he is a poor man and his father has already expired and having one daughter and an old mother, learned Additional Sessions Judge, Amritsar extended leniency in sentence. Accordingly, the sentence qua offence under Section 411 IPC was modified to the extent for a period of six months and to pay a fine of Rs.500/-. In default of payment of fine, the petitioner was further required to undergo rigorous imprisonment for a period of ten days instead of two months, as awarded by the trial Court.

Through the instant petition, the petitioner has initially challenged the judgment of conviction and order on sentence, however, during the course of arguments, learned counsel for the petitioner-accused has confined his arguments only qua the quantum of sentence.

Learned counsel for the petitioner has contended that as against the awarded sentence of six months, the petitioner is in custody for the last about 5½ months including remission. His actual custody is about 4 months. There is no other case against him. He has, therefore, prayed that the

sentence of the petitioner may be reduced to the period already undergone by him.

Learned State counsel has filed the custody certificate of the petitioner-accused. The same is taken on record. Learned State counsel has not controverted the factum of custody of the petitioner.

I have heard learned counsel for the parties.

There is no dispute regarding the custody of the petitioner. As against the awarded sentence of six months for offence under Section 411 IPC, the petitioner is in custody for the last about 5½ months and there is no other case against him. Since the petitioner has confined his argument regarding quantum of sentence with the prayer that sentence of the petitioner may be reduced to the period already undergone by him, this Court accepts prayer of learned counsel for the petitioner.

Admittedly, the FIR in question was registered on 5.3.2010 and the petitioner has been suffering the agony of trial for the last more than five years. The prayer of the petitioner that his sentence be reduced to the period already undergone by him carries substantial weight. Thus, taking into consideration the judgment of Hon'ble Delhi High Court in ***Joginder Lal Versus State 1998(3) RCR (Criminal) 192*** as well as judgment of this Court in ***Yadwinder Singh Versus State of Punjab 2009(3) RCR (Criminal) 245***, I am of the considered opinion that the ends of justice would be met if the conviction of the petitioner is affirmed, however, sentence of the

imprisonment is reduced to the period already undergone by him.

Accordingly, while upholding the impugned judgment of conviction passed by the trial Court and affirmed by the appellate Court, the present revision petition is dismissed with a modification in the impugned order of sentence to the effect that the sentence awarded to the petitioner is reduced to the period already undergone by him. The petitioner-accused be released from custody, if not required in any other case.

However, it is made clear that in case the petitioner-accused has not deposited the fine of Rs.500/-, he shall deposit the same within 10 days, failing which he shall further undergo rigorous imprisonment for ten days, as awarded by learned Additional Sessions Judge, Amritsar.

November 17, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE