

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4007 of 2014 (O&M)

Date of Decision: February 19, 2015

Gurmit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. P.P.S. Duggall, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab.

NARESH KUMAR SANGHI, J (Oral)

Challenge in this criminal revision petition is to the judgment dated 03.11.2014 passed by the learned Sessions Judge, Ferozepur, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 411, Cr.P.C., recorded by learned Judicial Magistrate Ist Class Ferozepur, was dismissed.

When the case came up for hearing on 11.12.2014, learned counsel for the petitioner submitted that in view of the concurrent findings of both the Courts below, he did not want to challenge the verdict of the said Court. However, in view of the

peculiar facts of the case, notice of motion was issued with regard to the quantum of sentence only.

Though the learned counsel for the petitioner has proposed not to argue the matter on the merits of the case, but to satisfy the conscience of this Court, the material available on record has been scanned with the able assistance of the counsel for the petitioner and the counsel representing the State of Punjab. The petitioner was booked for having committed the offences punishable under Section 379 on the allegations that on 18.04.2010 at about 7.30 p.m. Head Constable Sucha Singh had parked his Hero Honda Motorcycle bearing registration No.PB05-B-3359 near the tea canteen of CIA staff and went to market to purchase some articles. After sometime, when Head Constable Sucha Singh along with his children came to the spot of parking of the motorcycle, then the same was found missing. The matter was immediately brought to the notice of the PCR, but, the motorcycle could not be located. ASI Rachhpal Singh of CIA staff, Ferozepur, had recovered the said motorcycle on 15.08.2010 from the petitioner. During investigation the petitioner disclosed with regard to the theft of yet another motorcycle and on his disclosure statement, the same was also

recovered. The petitioner was chargesheeted for having committed the offence punishable under Section 379 IPC. In order to substantiate its allegations, the prosecution had examined as many as six witnesses besides producing the documentary evidence. Thereafter the statement of the petitioner in terms of Section 313 Cr.P.C. was recorded, wherein he denied all the incriminating evidence against him and pleaded innocence. No evidence in defence was led.

After hearing learned counsel for the parties, learned trial Court vide its judgment dated 11.06.2014, convicted the petitioner for having committed the offence punishable under Section 411 IPC and ordered him to undergo RI for a period of one year and to pay fine of ₹500/- and in default thereof to undergo further simple imprisonment for 15 days.

Dissatisfied with the said judgment of conviction and order of sentence, appeal was presented before the learned Sessions Judge, Ferozepur and the same was dismissed on 03.11.2014. After going through the material available on record this Court is also of the view that there was sufficient material to hold the petitioner guilty for the offence punishable under Section 411 IPC and as such, both the Courts below have rightly

passed the order of conviction.

In view of the above, learned counsel for the petitioner has correctly opted not to challenge his conviction. However, there appears to be substance in the submission of learned counsel for the petitioner when he submits that the petitioner is a first convict ; he is facing the agony of the trial, appeal and revision for last approximately 5 years; he has already suffered incarceration for 3 months and more than 15 days and the alleged stolen motorcycle has already been recovered and restored to informant-Head Constable Sucha Singh.

Learned counsel for the State has produced the affidavit of Deputy Superintendent (Officiating Superintendent) Central Jail, Ferozepur, showing the period of incarceration suffered by the applicant, which is taken on record. Learned counsel for the State fairly concedes that the alleged stolen motorcycle has already been recovered. He further concedes that in view of the affidavit of the officiating Superintendent of Central Jail, Ferozepur, the petitioner is not a previous convict. Perusal of the affidavit reveals that during incarceration the petitioner has earned the remission for 8 days which shows that

he is improving himself during the custody.

Keeping in view the totality of the facts and circumstances of the case, the present revision is partly allowed; the substantive sentence of the applicant is reduced to RI for 4 months. The amount of fine and default punishment prescribed by learned trial Court is maintained.

(NARESH KUMAR SANGHI)
JUDGE

February 19, 2015

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