

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

(216)

CRR-4031-2014 (O&M)

Date of Decision: October 15, 2015.

Surender Singh Sarwan

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

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

Mr. Gazi Mohammad, DAG, Punjab.

M.M.S. BEDI, J (ORAL)

Petitioner is alleged to have misappropriated a sum of Rs.56,000/- by keeping the said amount with him out of sum of Rs.1,40,000/- received by him as a bid amount.

The plea of defence of the petitioner is that he had retained the amount for expenses of the auction whereas it was not permissible to retain the amount under the Finance Rules. Petitioner has been sentenced to undergo rigorous imprisonment for a period of three years under Section 409 IPC. The entire amount received by the petitioner as Court auctioneer had been deposited with the Treasury on 26.11.2009.

Taking into consideration the said circumstances, this Court is of the opinion that no wrongful loss has been caused to the State by the act of the petitioner, who was posted as Naib Tehsildar and had functioned as Court auctioneer. Sentence could have been lesser than three years.

However, I do not find any infirmity in the conviction order.

The ends of justice would be adequately met in case the sentence of imprisonment is reduced from three years to one year. This revision petition is disposed of as partly allowed upholding the conviction order passed by the Courts below. However the sentence of imprisonment awarded is reduced from three years to one year upholding the sentence of fine, as ordered by the Courts below. The period of imprisonment undergone by the petitioner during period of trial and hearing of this revision will be set off.

(M.M.S. BEDI)
JUDGE

October 15, 2015
harsha