

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

**Criminal Revision No.4133 of 2014
Date of Decision:-31.3.2015**

Shindi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Gurpal Sandhu, Advocate for
Mr. S.P.S. Sidhu, Advocate
for the petitioner.

Mr. Gurinderjit Singh, Deputy A.G., Punjab.

HARI PAL VERMA J.(Oral)

The petitioner has filed the present revision petition under Section 401 Cr.P.C. against the order dated 27.11.2014 whereby his appeal against the judgment of conviction and order of sentence dated 2.6.2014 passed by learned Judicial Magistrate 1st Class, Ferozepur convicting him for the offence punishable under Section 61(1)(a) of the Punjab Excise Act sentencing him to undergo rigorous imprisonment for one year and to pay a fine of Rs.2,000/- was dismissed.

This Court while issuing notice of motion on December 22, 2014 passed the following order :-

“Challenge in this criminal revision petition is to the judgment dated 27.11.2014 passed by the learned Additional Sessions Judge, Ferozepur, whereby the appeal filed by the petitioner challenging his conviction and sentence punishable under Section 61(1)(a) of the

Punjab Excise Act and ordered to undergo rigorous imprisonment for one year besides the payment of fine of Rs.2,000/- and in default thereof to undergo simple imprisonment for 20 days.

Learned counsel for the petitioner at the very outset 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, there are fairly arguable points in the revision petition so far as the quantum of sentence is concerned.

Notice of motion for 04.02.2015 with regard to quantum of sentence only.”

Pursuant to the notice on the quantum of sentence, learned State counsel has filed the custody certificate of the petitioner, as per which, against the total awarded sentence of one year, the petitioner has already undergone 4 months and 23 days including remission.

Learned counsel for the petitioner has argued that the petitioner is suffering the protracted trial since the year 2009 and he has undergone the sentence of 4 months and 23 days including remission against the total sentence of one year. It is prayed that the petitioner be sentenced to already undergone.

In the similar circumstances, this Court in the case of ***Mangal Singh vs. State of Punjab*** 2006(2) RCR (Criminal) 651, sentenced the accused to undergo one year rigorous imprisonment and fine of Rs.5,000/-. The sentence was reduced to already undergone. In this case the accused has undergone only 34 days. Taking into consideration the aforesaid custody, this Court reduced the sentence to that already undergone by the accused. Again in the case of ***Mangal Singh vs. State***

of Punjab 2005(2) RCR (Criminal) 246, Criminal Revision No.708 of 1989, decided on 23.2.2005 while taking lenient view in the matter and in the interest of justice the accused was sentenced to the period already undergone.

Considering the fact that the petitioner has faced this protracted trial for about six years, it must have caused him sufficient harassment and mental agony. The petitioner has also undergone a part of the imprisonment awarded to him and after such a long time it will not serve any useful purpose if he is sent to jail to serve the remaining sentence. Accordingly, taking into consideration the circumstances of the case, this revision petition is disposed of and the sentence of imprisonment of the petitionere is reduced to the period which he remained in custody. However, sentence of fine with default clause is maintained.

March 31, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE