

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 84 of 2015 (O&M)

Date of Decision: 1.7.2015

Major Singh

... Petitioner(s)

Versus

State of U.T. Chandigarh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

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

Present: Mr. M.S.Dhami and Mr. Madan Sandhu, Advocates
for the petitioner(s).

Mr. Anil Kumar Lamdharia, Additional Public
Prosecutor for U.T. Chandigarh/respondent.

Darshan Singh, J.

1. Learned counsel for the petitioner pleads that he presses the revision petition only qua quantum of sentence and does not challenge the conviction of the petitioner as recorded by the learned Courts below. So, the present revision petition is hereby admitted qua the quantum of sentence only. The same is taken up on the board of this Court for final disposal.

2. Petitioner-Major Singh was held guilty and convicted by the learned trial Court for the offences punishable under Sections 411, 468, 471 & 474 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") vide impugned judgment dated 24.1.2014 and vide a separate order of even date, he was sentenced to undergo rigorous imprisonment

of three years and to pay a fine of ₹ 500/- for each offence. In default of payment of fine, he was further ordered to undergo imprisonment for a period of one month. The petitioner preferred an appeal against his conviction and sentence. His appeal against the conviction was dismissed with modification of sentence vide impugned judgment dated 11.12.2014. Aggrieved against the aforesaid judgments, the present revision petition has been preferred.

3. At the very outset, learned counsel for the petitioner pleads that he does not challenge the conviction of the petitioner as recorded by the learned trial court. He only presses the petition on the quantum of sentence. He pleaded that the petitioner is more than 62 years of age. He is not a previous convict and was never indulged in any other criminal activity. He further contended that the petitioner is facing the agony of this litigation since the year 2002. He is in custody for the last ten months, which is quite a sufficient period. He further contended that both the Courts below have committed illegality in the impugned orders as it is not mentioned as to whether the sentence awarded to the petitioner would run concurrently. He pleaded that all the sentences should be ordered to run concurrently.

4. On the other hand, learned Additional Public Prosecutor pleaded that the petitioner was found in possession of a stolen car with fake documents. Thus, the sentence awarded to the petitioner is just and appropriate and does not call for any interference.

5. The aforesaid contentions have been duly considered.

6. The petitioner has been convicted by the learned Courts below

for the offences punishable under Sections 411, 468, 471 & 474 IPC on account of having in his possession a stolen car with fake documents. Learned Additional Sessions Judge, vide impugned judgment dated 11.12.2014, has sentenced the petitioner to undergo rigorous imprisonment for a period of one year & six months for each offence by reducing the sentence awarded by the learned trial Court.

7. In paragraph No.14 of the impugned judgment dated 11.12.2014, passed by the learned Additional Sessions Judge, Chandigarh, it has been categorically mentioned that the petitioner is more than 62 years of age. Learned counsel for the petitioner has further pleaded that the petitioner is not a previous convict and had never indulged in any other criminal activity. It is also not disputed that the petitioner is facing the agony of this litigation for the last about 13 years. As per the custody certificate, placed on record by the learned Additional Public Prosecutor, the petitioner has already undergone the actual sentence of ten months including remissions for 24 days. Thus, keeping in view the age and antecedents of the petitioner, he certainly deserves leniency/reduction in the matter of sentence.

8. This fact is not disputed that all the offences, for which the petitioner has been convicted, have arisen out of the same transaction. As per the law laid down by the Hon'ble Apex Court in case ***O.M. Cherian @ Thankachan v. State of Kerala and Others 2014(4) R.C.R. (Criminal) 922***, when the prosecution is based on single transaction and it constitutes two or more offences, the sentences are to run concurrently. Imposing separate sentences when the acts constituting

different offences form part of the single transaction is not justified. So, the sentences awarded to the petitioner shall run concurrently.

9. Thus, keeping in view my aforesaid discussion, the revision petition qua conviction of the petitioner stands dismissed. However, the order of sentence stands modified as under:-

Sr. No.	Offence	Sentence
1.	Under Section 411 IPC	To undergo rigorous imprisonment for a period of one year.
2.	Under Section 468 IPC	To undergo rigorous imprisonment for a period of one year.
3	Under Section 471 IPC	To undergo rigorous imprisonment for a period of one year.
4	Under Section 474 IPC	To undergo rigorous imprisonment for a period of one year.

The sentence of fine and in default thereof, as awarded by the learned trial Court, shall remain intact. All the sentences shall run concurrently.

10. The present revision petition stands disposed of.

(Darshan Singh)
Judge

July 1, 2015
“DK”