

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

Criminal Appeal No. S-3065-SB of 2014

Date of Decision : June 2, 2016

Puran Singh @ Makhan

..... APPELLANT

VERSUS

State of Punjab

..... RESPONDENT

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MRS. JUSTICE LISA GILL**

1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

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Present: Mr. H.S.Dhindsa, Advocate
for the appellant.

Mr. Gaurav Garg, Deputy Advocate General, Haryana
for the respondent.

...

LISA GILL, J.

The appellant-Puran Singh @ Makhan has been convicted to undergo rigorous imprisonment for a period of three years for the offence punishable under Section 66-D of Information Technology Act, 2000 and a fine of ₹30,000/- has been imposed and in default thereof, rigorous imprisonment for 09 months.

Learned counsel for the appellant submits on instructions that

~~The~~ appellant does not wish to challenge his conviction as he has already

undergone an actual sentence of 02 years 11 months and 13 days out of the total sentence of 03 years in this case. However, the appellant is a poor person having no means to pay such a heavy amount of fine. The said appellant was released on bail in this case on 19.8.2015. In these circumstances, it is prayed that the sentence imposed upon the appellant be reduced to that of already undergone and the fine as well as sentence in default of payment of fine may also be reduced.

The period of sentence undergone by the said appellant Puran Singh @ Makhan is confirmed by the learned counsel for the State and is further fortified by the affidavit dated 3.5.2016 of Jeewan Thakur, DSP, Central Jail, Ferozepur.

We have heard learned counsel for the parties.

There is no dispute regarding the period of custody undergone by the appellant. It is noticed that one of the co-accused in this case namely Kirpal Singh @ Pala who is similarly placed as the present appellant was also sentenced to undergo rigorous imprisonment for 03 years for the offence punishable under Section 66-D of Information Technology Act filed Criminal Appeal No. 3975-SB of 2015 which was partly allowed on 19.1.2016. Appellant Kirpal Singh had given up challenge to his conviction and substantive sentence. Kirpal Singh had undergone the period of imprisonment of 03 years but was in custody as he was unable to pay the amount of fine. While maintaining the conviction and the substantive sentence of imprisonment, the fine imposed on Kirpal Singh was reduced to ₹15,000/- from ₹30,000/- and the sentence of imprisonment in default of payment of fine was reduced to 04 months from 09 months and Criminal Appeal No. 3975-SB of 2015 was partly allowed.

In the facts and circumstances of the present case, we deem it appropriate to partly allow this appeal and while maintaining the conviction of the appellant the sentence imposed upon the appellant-Puran Singh @ Makhan is reduced to that of already undergone. The fine is reduced to ₹20,000/- from ₹30,000/- and sentence of imprisonment in default of payment of fine is reduced from 09 months to 04 months. The fine in question be paid within a period of one month from the date of receipt of a certified copy of this order.

June 2, 2016
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(MAHESH GROVER)
JUDGE

(LISA GILL)
JUDGE