

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

CRR-796-2006

Date of decision: 2.2.2016

Firoz Ahmed

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Rahul Jaswal, Advocate for
Mr.VK Thakur, Advocate for the petitioner

Mrs.Lavanya Paul, Assistant Advocate General, Punjab

SNEH PRASHAR, J.

The revisionist- petitioner alongwith his co-accused Mohinder Singh was convicted under Section 411 of the Indian Penal Code (for short 'IPC') vide judgment of conviction dated 19.4.2005 passed by learned Judicial Magistrate, 1st Class, Kapurthala and was sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.500 each and in default of payment of fine to further undergo rigorous imprisonment for ten days vide order dated 20.4.2005. The appeal filed by the petitioner was dismissed by learned Sessions Judge, Kapurthala vide judgment dated 20.3.2006.

The facts in brief are that Shingara Singh son of Gian Singh r/o Bhagatpur lodged a complaint with the police whereby he stated that after having sown wheat crop, the tiller (hull) and land leveler (Sohaga), as usual were left by him in the tubewell room in existence in his fields.

On 13.12.2003 when he went to the field, he found the said articles missing. Based on the complaint First Information Report No. 120 dated 16.12.2003 under Section 379 of the Indian Penal Code was registered. Investigation was carried out and the petitioner and his co-accused Mohinder Singh were arrested. The stolen tiller and land leveler were recovered from them. On completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court.

Charge under Section 411 IPC was framed against both the accused, to which, they pleaded not guilty and claimed trial.

To substantiate its allegations, prosecution examined PW1 HC Jarnail Singh, PW2 Shingara Singh, PW3 Darshan Singh and PW4 ASI Jagjit Singh. After closure of evidence of the prosecution, statements of both the accused as envisaged under Section 313 of the Code of Criminal Procedure were recorded. They denied the incriminating evidence put to them and pleaded false implication.

Considering the submissions made by learned Assistant Public Prosecutor for the State as well as the counsel representing the petitioner (accused) and evaluating the evidence brought on record, learned trial Court convicted and sentenced the petitioner and co-accused Mohinder Singh as noted above. Aggrieved against the judgment of conviction and order of sentence, the petitioner filed an appeal, which was dismissed by learned Sessions Judge, Kapurthala vide judgment dated 20.3.2006.

Feeling dissatisfied, the petitioners filed the present criminal

revision petition.

The submissions made by learned counsel for the parties have been heard and record perused.

As the matter was opened for arguments, learned counsel for the petitioners contended that in view of the concurrent findings of both the courts below holding the petitioner guilty for the offence punishable under Section 411 IPC, he would not contest the present petition on merits as regards the judgment of conviction, but he prayed that the petitioner, who is a poor person and is having two small children and the responsibility of old parents be given the relief on probation.

A close examination of the prosecution evidence reveals that no holes can be picked up in the findings returned by the learned trial Court and affirmed by learned First Appellate Court, for arriving at the conclusion that the charge against the accused- petitioner stands established. As such, no intervention is warranted in the judgment of conviction and the same is hereby affirmed.

Coming to the quantum of sentence, admittedly, recovery of stolen property had been made. Considering the submissions made on behalf of the petitioner and the fact that he belongs to poor strata of society; has a family consisting of two small children and old parents to support and is facing a protracted trial for the last twelve years, this Court feels that the ends of justice would be served if instead of sending him behind the bars, he is released on probation on his executing the probation bonds in the sum of Rs.20,000/- with one surety in the like

amount under Section 4(1) of the Probation of Offenders Act, 1958 to the satisfaction of learned Chief Judicial Magistrate, Kapurthala. Ordered accordingly.

The bonds be furnished within a period of one month from the date of receipt of the certified copy of this order, failing which, the present petition shall be deemed to be dismissed. The amount of fine deposited by the petitioner is converted into litigation expenses.

The present criminal revision petition is disposed of accordingly.

2.2.2016
gsv

(SNEH PRASHAR)
JUDGE