

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

CRR-617-2007

Date of decision: 3.2.2016

Mohinder Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR**

Present: Mr.AS Gill, Advocate for the petitioners

Mrs.Lavanya Paul, Assistant Advocate General, Punjab

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**SNEH PRASHAR, J.**

Challenge in this criminal revision petition is to the judgment dated 5.2.2007 passed by learned Additional Sessions Judge, Jalandhar, whereby the appeal filed by the petitioners against the judgment of conviction and order of sentence dated 29.11.2005, vide which, they were sentenced to undergo simple imprisonment for a period of one year under Section 411 of the Indian Penal Code (for short 'IPC'), was dismissed.

The brief facts of the case are that on 6.9.2001, complainant Charanjit had made a written complaint Ex.PA to ASI Joginder Singh stating therein that he is a resident of Village Jandhu Singha and working as a labourer in a Gas plant in village Suchi. He was having a grey coloured scooter bearing registration No.PB-08K-7721. On that day he was going towards his village at 11.00 AM from village Suchi for some

work he stopped his scooter on the culverts of minor to urinate. In the meantime, three young persons came on a scooter from the side of Village Jandu Singha, among them two were clean shaven and third was a Sikh gentleman. They stopped their scooter and one of them started his scooter and they drove towards Village Chugiti. He raised noise but those persons sped away.

On the basis of an application given by the complainant to the police, FIR No.595 dated 6.9.2001 under Section 379/411 IPC, Police Station Sadar, Jalandhar was registered. The scooter was recovered from Mohinder Singh and Vijay Kumar @ Gabbar who were arrested. On completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court.

The accused were chargesheeted under Section 411 IPC to which, they pleaded not guilty and claimed trial.

To prove its allegations, prosecution examined as many as five witnesses.

After closure of evidence of the prosecution, statements of the petitioners under Section 313 of the Code of Criminal Procedure were recorded. They denied the incriminating evidence put to them and pleaded innocence and false implication.

Considering the submissions made by learned Assistant Public Prosecutor for the State as well as the counsel representing the petitioners and evaluating the evidence brought on record, learned trial Court convicted and sentenced the petitioners as indicated above.

Aggrieved against the judgment of conviction and order of sentence, the petitioners filed an appeal, which was dismissed by learned Additional Sessions Judge, Jalandhar vide judgment dated 5.2.2007.

Feeling still dissatisfied, the petitioners filed the present criminal revision petition.

The submissions made by Mr.AS Gill, counsel for the petitioner and Mrs.Lavanya Paul, Assistant Advocate General, Punjab representing the State have been heard and record perused.

At the very outset, learned counsel for the petitioners contended that in view of the concurrent findings of both the courts below holding the petitioners guilty for the offence punishable under Section 411 IPC, he does not want to pursue the present petition on merits as regards the judgment of conviction, however, he contended that the petitioners being poor persons and having the responsibility of families, their sentence be reduced to the period already undergone.

A close examination of the prosecution evidence reveals that no holes can be picked up in the findings recorded by the learned trial Court and affirmed by learned First Appellate Court, for arriving at the conclusion that the charge against the accused (petitioners) stands established and therefore, the judgment of conviction is maintained

Coming to the quantum of sentence, admittedly the scooter of the complainant had been recovered. As per the custody certificate placed on record by learned State counsel, petitioner Mohinder Singh has undergone more than five months and petitioner Vijay Kumar @

Gabbar has undergone about five months out of the actual sentence.

Taking into consideration the entirety of the facts and circumstances of the case, it will be in the interest of justice if the sentence awarded to the petitioner is reduced to the period already undergone by each of them.

Resultantly, the present criminal revision petition is disposed of reducing the sentence of the petitioners to the period already undergone.

3.2.2016  
gsv

**(SNEH PRASHAR)**  
**JUDGE**

