

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

Criminal Revision 1388 of 2008

Date of Decision : December 13, 2016

Ramesh Kumar

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Brijender Kaushik, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S. MANN, J. (Oral)

The petitioner alongwith Bachan Dass and Rajnish Arora was tried for committing offence punishable under Section 3 of the Railway Property (Unlawful Possession) Act, 1966, (hereinafter to be referred as 'the Act'). Vide judgment and order dated 11/12.7.2006, learned Special Railway Magistrate, Haryana, Ambala Cantt. acquitted Bachan Dass and Rajnish Arora of the charge against them. However, the petitioner was convicted for the said charge and sentenced to undergo rigorous imprisonment for three months.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge, (Ad hoc), Fast Track Court, Ambala, vide judgment dated 19.7.2008. Still not satisfied, the petitioner preferred the present

revision, which was admitted on 1.9.2008 and his sentence of imprisonment was also suspended.

According to the prosecution, the petitioner was noticed by Constable Pritam Kumar, Constable Naan Babu and Gangman Mam Chand while carrying a tin and a bag. On suspicion, Constable Pritam Kumar and Constable Naan Babu asked the petitioner to stop but he ran away leaving behind the tin and the bag. An attempt was made to apprehend him but in vain. The bag on search was found to contain V-belts whereas tin contained grey colour paint.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offence under Section 3 of the Act. He, however, submits that the petitioner is facing the agony of criminal prosecution for the last more than twenty years. He is the only one to take care of his family. It is also submitted that the cost of stolen article was nominal. It is further submitted that out of the sentence of three months imposed upon him, he has already undergone a period of more than one and half month. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the sentence awarded to the petitioner is commensurate with the crime committed by him. Learned State

counsel has, however, produced the custody certificate, as per which, the petitioner has already undergone an actual sentence of one month and twenty one days. He is also not shown to be either involved or convicted in any other case.

Having heard learned counsel for the parties and considering the aforementioned circumstances/reasons to be adequate and special, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Section 3 of the Railway Property (Unlawful Possession) Act, 1966 is upheld and his sentence of imprisonment is reduced to the one already undergone by him. However, he shall pay an amount of Rs.3,000/- as fine. The said amount of fine be deposited by him with the learned trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for one month.

The revision is, accordingly, disposed of.

December 13, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No