

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No. 345 of 2008

Date of Decision: 21.04.2016

Rama Nand

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Ms. Pushpa Dharwal, Advocate, for
Mr. Sanjay Vashisth, Advocate, for the petitioner.

Mr. Dhruv Dayal, Deputy AG, Haryana.

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

The petitioner was tried for committing offences punishable under Sections 457 and 411 IPC. Vide judgment and order dated 15.09.2007, learned Judicial Magistrate, Ist Class, Siwani, held him guilty under Section 411 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1500/- and, in default of payment of fine, to further undergo rigorous imprisonment for two months.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 09.02.2008, learned Additional Sessions Judge (Fast Track Court)

Bhiwani, found no merit in the same and accordingly while upholding the conviction and sentence of the petitioner, dismissed the appeal. Still not satisfied, he filed the present revision which came to be admitted on 20.02.2008. Subsequently, vide order dated 27.02.2008, this Court was pleased to suspend his sentence and released him on bail.

The case of the prosecution as has been noticed by the learned lower appellate Court, in paragraphs 2 and 3 of its judgment, is as under:-

“2. Shorn of details, the prosecution case, culled out from the police report transmitted under Section 173 Cr.P.C. is that on 5.3.2003, complainant Mahender Kumar presented a complaint before ASI Suraj Bhan to the effect that on 4.3.2003 at about 5.00/6.00 p.m., he along with his family members was away to attend the marriage of his nephew in village Chaudhorywas and on 5.3.2003 at about 7.00 a.m., when he came back, he found the locks of two rooms broken and all the items were littered. Some unknown persons had committed the theft of the belongings of the complainant. On his complaint, the FIR was registered and investigating machinery was set into motion.

3. During the course of investigational process, the site plan was prepared. The accused was arrested and his disclosure statement was recorded. On the basis of his disclosure statement, the stolen articles i.e. two gold bangles, three gold rings, one pair of gold ear ring, two gold chains, one gold tikka, one gold

chain, two pairs of silver pajeb, one pair of silver ear ring and cash amount of Rs.10,000/- were recovered. After the completion of investigation, charge-sheet was presented.”

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court is of the considered view that the petitioner has been rightly convicted for committing the offence under Section 411 IPC. He was found in possession of the stolen articles and goods regarding which he could not offer any satisfactory explanation. Moreover, there was no previous background of any enmity or animus between the complainant and the petitioner which could be used to falsely implicate him in the present case.

As regards the quantum of sentence, it may be noticed that the petitioner has been facing the agony of criminal prosecution for the last more than 13 years. When he was examined by the trial Court under Section 248 Cr.P.C., he had pleaded that he was a poor person and having small children to look after. As per the custody certificate produced by the learned State Counsel, the petitioner has already undergone an actual sentence of 3 months and 20 days.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the petitioner

behind the bars once again to undergo the remaining period of imprisonment imposed upon him. Ends of justice would be amply met if his substantive sentence is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Section 411 IPC is upheld. However, his substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine along with its default clause is maintained.

The revision is, accordingly, disposed of.

21.04.2016
ds

(T.P.S. MANN)
JUDGE