

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

Crl. Revision 779 of 2008

Date of Decision : September 16, 2016

Naresh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. U.K. Agnihotri, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

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

The petitioner alongwith three others, namely, Balinder, Shishpal and Ramesh was tried for committing the offence punishable under Section 411 IPC. Vide judgment and order dated 11.07.2007, learned Sub Divisional Judicial Magistrate, Narwana convicted them for the aforementioned offence. While Shishpal and Ramesh were sentenced to undergo imprisonment already undergone by them, the petitioner and Balinder were sentenced to undergo rigorous imprisonment for nine months and to pay a fine of Rs. 200/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months. The amount of fine imposed upon the petitioner was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide order dated 05.04.2008, learned Sessions Judge, Jind after finding that there was no merit therein, dismissed the same. Still not satisfied, he filed the present revision which was admitted on 28.04.2008. Later on, his sentence was suspended vide order dated 30.04.2008.

The case of the prosecution, in nutshell, is that Maruti Car bearing No. DNA-2915 owned by complainant-Sukhdev Sharma was stolen on the intervening night 30/31.05.2006 when it stood parked in the street in the front of his house. He had been searching for his vehicle at his own level but could not find any clue. Infact, the car in question stood registered in the name of its owner Ved Parkash Bindlish from whom the complainant had purchased it.

During the investigation of the case, the aforementioned car was recovered by the police from the possession of the petitioner. Further, the petitioner also got recovered the stepeny of the car.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offence under Section 411 IPC. He, however, submits that the petitioner is facing the agony of criminal prosecution for the last more than

10 years. He is not a previous offender. He is the sole bread winner of his family and his father has since expired. He has already undergone a period of about three months out of the sentence of nine months imposed upon him. Prayer has, accordingly, been made for setting aside the remaining sentence of imprisonment of the petitioner.

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.

As per the custody certificate already taken on record before the sentence of the petitioner was suspended by this Court, he had already undergone an actual sentence of two months and twenty one days. He was also not shown to be involved or convicted in any other criminal case.

Taking into consideration the totality of the circumstances, this Court of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine imposed upon him can be suitably enhanced.

Resultantly, the conviction of the petitioner under Section 411 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs. 200/- imposed upon him by the trial Court and upheld by the lower appellate court is, however, enhanced to Rs.2,000/-. The enhanced amount of fine be deposited by the petitioner with the trial Court within three months from today, failing which he shall be required to undergo imprisonment for a period of six months.

The revision is, accordingly, disposed of.

September 16, 2016
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No