

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

Crl. Revision 1400 of 2009
Date of Decision : April 06, 2016

Virender Swami

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Surender Dhull, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana

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

The petitioner was tried for committing the offences punishable under Sections 380, 454 and 411 IPC on the allegations that he had stolen water taps after breaking into a house during night and later on he was found to be in possession of stolen property. Vide judgment and order dated 8/12.2.2008, learned Chief Judicial Magistrate 1st Class, Hisar convicted him for the said offences and sentenced him as follows:-

- (i) Rigorous imprisonment for one year and to pay a fine of Rs. 500/- under Section 380 IPC and in default of payment of fine, to undergo simple imprisonment for one month;
- (ii) Rigorous imprisonment for two years and to pay a fine of Rs. 500/- under Section 454 IPC and in default of payment of fine, to undergo simple imprisonment for one month; and
- (iii) Rigorous imprisonment for one year and to

pay a fine of Rs. 500/- under Section 411 IPC and in default of payment of fine, to undergo simple imprisonment for one month.

All the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentences, the petitioner filed an appeal. Vide judgment dated 27.2.2009, learned Additional Sessions Judge, Hisar found no merit in the same and, accordingly, while dismissing it, upheld the conviction and sentences of the petitioner.

Learned counsel for the petitioner has not challenged the conviction of the petitioner for the offences under Sections 380, 454 and 411 IPC. However, he has submitted that the petitioner is facing the agony of criminal prosecution for the last more than nine years. He is the sole bread winner of his family. He is on bail since 14.7.2009. There is no allegation that in the interregnum, he has misused the concession of bail. It is also submitted that out of the sentence of two years imposed upon him, he has already undergone a period of about seven months. Prayer has, accordingly, been made for reducing his sentence of imprisonment to the one already undergone by him.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner had been breaking into the houses during night time and committing theft of water taps. Learned State counsel has, however, produced the custody

certificate, as per which the petitioner has already undergone an actual sentence of six months and twenty two 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 sentence of imprisonment imposed upon him. Ends of justice would be best met if his sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Sections 380, 454 and 411 IPC is upheld. His substantive sentences of imprisonment on all the counts shall stand reduced to the one already undergone by him. However, the fine of Rs. 500/- imposed upon him on each of the three counts is enhanced to Rs.2,000/-. As the petitioner has already deposited the fine imposed upon him by the Courts below, he shall deposit the enhanced amount of fine with the trial Court within a period of three months from today failing which he shall undergo simple imprisonment for three months on each of the three counts.

The revision is, accordingly, disposed of.

April 06, 2016
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(T.P.S. MANN)
JUDGE