

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

**CRR No.2562 of 2009 (O&M)
Date of Decision: December 02, 2016**

Rajinder alias Kala

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Barjinder Singh, Advocate for
Mr.Ashish Gupta, Advocate
for the petitioner.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Rajinder alias Kala against respondent State of Haryana, challenging the impugned judgment of conviction dated 08.07.2006 and order of sentence dated 10.07.2006 passed by learned Judicial Magistrate Ist Class, Karnal, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of three months under Section 411 IPC and also challenging the judgment dated 16.09.2009 passed by learned Addl. Sessions Judge, Karnal, vide which appeal filed by petitioner was dismissed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against

petitioner in case FIR No.142 dated 21.07.2001. The brief facts of the case as noted down in the judgment passed by learned JMIC, Karnal, are as under:-

“Brief facts of the prosecution case are that on 21-07-2001 Head Constable Ram Chander alongwith other police officials was present at bus stand, Anjanthali in connection with patrolling duty, in the meantime a secret information was received to the effect that Subhash son of Hari Ram, Rajinder alias Kala son of Subhash, Balinder son of Sube Singh and Sanjay son of Veda were cutting and stealing the kikkar trees belonging to the Aibla Forest and were loading the same in the trolley of Mahindra Tractor 265-DI. It was further informed by the informant that the accused persons would sell the woods of the kikkar trees in the Nissing and if a raid was conducted, they could be caught red handed. Believing the information to be true, a ruqa was sent to the police station for registration of case under Sections 379/411 of Indian Penal Code through Constable Harjeet Singh. Thereafter, a Nakabandi was held near the Power House of village Jamba, in the meantime the tractor in question was seen coming from the side of village Kirmach. The tractor-trolley as well as the loaded kikkar trees were taken into police possession vide separate recovery memo Ex.P1. Rough site plan Ex.PW7/B of the place of recovery was also prepared. The identification memo Ex.PW7/C of the place of occurrence was prepared. Rough site plan Ex.PW7/D of the place of occurrence was also prepared. The statements of witnesses under Section 161 Cr.P.C. were recorded. The accused were arrested. After completion of the other necessary investigations, report under Section 173 of the Code of the Criminal Procedure was prepared and submitted in the court.”

Learned JMIC, Karnal, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Karnal, vide judgment dated 16.09.2009.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did

conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is first offender and only bread earner of the family and he is suffering from the criminal proceedings since 2001. Learned counsel for the petitioner further contended that petitioner has already undergone actual sentence of 3 months and 14 days.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is facing long protracted criminal proceedings since 2001 i.e. for the last about 15 years and is first offender, only bread earner of the family and also in view of the fact that petitioner has already undergone imprisonment of 3 months and 14 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and default thereof, shall remain the same. The petitioner is directed to pay the fine within one month from the date of receiving the certified copy of the order, if already not paid, otherwise, the trial Court is directed to take necessary action as per law.

Resultantly, the present revision petition stands partly allowed.

Since, petitioner Rajinder alias Kala, is on bail, his bail/surety bonds stand discharged.

December 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No