

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

Crl. Revision 2260 of 2010
Date of Decision : April 22, 2016

Prithvi Chand

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. R.S.Mamli, Advocate

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

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

The petitioner was tried for committing the offence punishable under Section 379 IPC read with Section 39 of the Indian Electricity Act, hereinafter referred to as “**the Act**”.

Vide judgment and order dated 18.4.2009, learned Judicial Magistrate 1st Class, Kurukshetra held the petitioner guilty of the aforementioned charges and sentenced him to undergo rigorous imprisonment for a period of one year. Aggrieved of his conviction and sentence, he filed an appeal. Vide judgment dated 5.8.2010, learned Sessions Judge, Kurukshetra upheld his conviction. However, his sentence of imprisonment was reduced from one year to four months. Still not satisfied, he filed the present revision which came to be admitted on 17.8.2010. Subsequently, he was granted the concession of bail by this Court vide order dated 25.8.2010.

The case of the prosecution as has been noticed by the lower appellate Court in para 2 of its judgment is reproduced here below:-

“According to the prosecution version, on 28.9.2001 Shashi Bhushan Sharma Junior Engineer and R.P.Gulati Junior Engineer Operation Sub Division, Uttar Haryana Bijli Vitran Nigam, Amin conducted a raid in the premises of Prithvi Chand son of Ram Kishan where earlier electricity connection was provided in the name of Prithvi Chand. At the time of raid no electricity meter was found installed at the spot. At that time, the accused was committing theft of electricity energy with the help of a four metres 2/C PVC wire from nearby low tension pole. The wire which was being used for supply of electricity illegally was removed from the spot and checking report was prepared on the same date. An amount of Rs.1843/- was imposed as penalty regarding commitment of theft of electricity energy and an amount of Rs.15,724/- was due towards the convict-appellant who was earlier consumer of the Nigam. In fact, what happened earlier due to non-payment of electricity consumption charges, the electricity connection of the appellant-convict was disconnected and thereafter the appellant-convict was found committing theft of electricity energy by using a wire. A notice was served upon the appellant-convict on 3.10.2001 giving him opportunity to make payment of the electricity bill as well as penalty amount imposed in connection with theft of electricity energy. As the convict did not make payment of the amount, the matter was reported to the police on 15.10.2001. On these allegations, a criminal case under Section 379 IPC read with Section 39 of the Indian

Electricity Act, 1910 was registered on 23.10.2001 against Prithvi Chand under FIR No. 179 at Police Station Kurukshetra University, Kurukshetra. During investigation, rough site plan was prepared, wire used at the time of commission of theft of electricity energy was taken in possession, statements of the prosecution witnesses were recorded and after completion of necessary investigation, the accused was challaned under Section 379 IPC read with Section 39 of the Indian Electricity Act, 1910.”

After hearing learned counsel for the parties and on going through the record, this Court finds that no case is made out for any interference in the conviction of the petitioner. The prosecution has led cogent and convincing evidence to establish that he had committed the offence under Section 379 IPC read with Section 39 of the Act.

However, as regards the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than fourteen years. When he had filed the appeal against his conviction and sentence, he stated his age as 52 years. Further, when he was examined by the trial Court under Section 248 Cr.P.C., he had stated that he was the only bread winner of his family which consisted of his three daughters and one son. He himself was a heart patient. As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of twenty three 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 amply met if his sentence of imprisonment is reduced to the one already undergone by him. At the same time, he can be directed to pay an amount of Rs. 10,000/- as fine.

Resultantly, the conviction of the petitioner under Section 379 IPC read with Section 39 of the Indian Electricity Act is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. However, he shall pay an amount of Rs. 10,000/- as fine which he shall deposit with the trial Court within a period of three months, failing which he shall undergo simple imprisonment for 1½ months.

The revision is, accordingly, disposed of.

April 22, 2016
ajay-1

(T.P.S. MANN)
JUDGE