

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.40 of 2011 (O&M)

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Date of decision:6.5.2016

Kuldeep

...Petitioner

v.

State of Haryana

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sushil Sheoran, Advocate for Mr. R.A. Sheoran, Advocate
for the petitioner.

Mr. Vikramjit Singh, Additional Advocate General, Haryana
for the respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 10.12.2010 passed by learned Additional Sessions Judge-V, Bhiwani, vide which the appeal filed by the petitioner against the impugned judgment of conviction and order of sentence dated 15.12.2008/24.12.2008 passed by learned Judicial Magistrate Ist Class, Charkhi Dadri, convicting the petitioner for the offences under Sections 386 and 388 IPC and sentencing him to undergo rigorous imprisonment for three years and to pay a fine of ₹5,000/- for the offence under Section 386 IPC and also to undergo rigorous imprisonment for three years and to pay a fine of ₹5,000/- and in default of payment of

fine to further undergo rigorous imprisonment for six months for the offence under Section 388 IPC, has been dismissed.

At the time of preliminary hearing, learned counsel for the petitioner mainly argued for reduction of the sentence and nothing has been pointed out as to how the orders passed by the Courts below are perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread by the Courts below or as to which material evidence has not been considered by the Court.

From the record, I find that the facts of the case as noted down by the learned Judicial Magistrate Ist Class, Charkhi Dadri, in the judgment are as under:-

“Brief facts of the prosecution's case as unfolded during trial are that complainant Satyawan Sangwan son of Risal Singh is a resident of Village Charkhi and is a property dealer by profession. At about 20 days before the lodging of complaint he had received a telephonic call on his mobile phone bearing SIM No.9896905679 from Vijay son of Rattan Singh, a dreadful criminal of his own village, whereby a sum of Rs.5 lakh was demanded from him. When he expressed his inability to pay the demanded amount, Vijay administered threat of dire consequences to him and he also threatened him that his name shall be given by him in some murder case which might be committed by him. Thereafter the complainant did not pay any heed to the said threat, but on 13.11.2007 at about 7.30 P.M.

While he was going from Dadri to his Village Charkhi, on his car bearing registration No.HR-19-C-9999, he noticed that a red coloured Santro car bearing registration No.DL-3CS-6812 was desperately following him. The said car wanted to take over his car. He felt intimidated by the manner said car was following him. The said car was being driven by Vijay son of Chiranji Lal, in which Pardeep son of Sube Singh and Rakesh son of Ram Chander were also seated. He somehow managed to escape from the chase which ended near his house in village Charkhi. On 14.11.2007 at about 9.30 a.m., he received another call on his mobile phone from another mobile phone bearing SIM No.9991802574 from accused Kuldeep son of Partap Singh of his own village Charkhi and whose voice was also identified by him, whereby the caller cautioned him about the yesterday's incident and also advised to pay the demanded amount of Rs.5 Lacs. On the basis of a written complaint, FIR in the instant case was registered and investigations were launched. On 15.11.2007 complainant lodged a supplementary complaint with the concerned police station, wherein he informed the police that accused Jugga alias Jogender son of Rajbir, resident of Village Charkhi was also seated in the car which chased him on 13.11.2007. Site plan of the place of occurrence was prepared. Statements of witnesses under Section 161 Cr.P.C. were recorded and both the accused facing

trial were arrested. During investigation, it was revealed that the mobile phone bearing SIM No.9991802574 was issued in the name of Yogesh son of Satbir, who informed the police that it was accused Kuldeep only who had made the said phone call from his phone. The said SIM card was also taken into police custody. After completion of other formalities of investigation final report under Section 173 Cr.P.C. was prepared and submitted in the Court for putting both these accused on trial. Accused Vijay could not be arrested and he was declared as proclaimed offender. Vijay the person who was driving the alleged Santro car and Rakesh and Pardeep who were allegedly seated in the said car were found innocent during investigation.”

From the perusal of the judgments passed by the learned Judicial Magistrate Ist Class, Charkhi Dadri as well as the learned Additional Sessions Judge, Bhiwani, I find that the findings given by the Courts below are correct as per evidence and law. In no way, these judgments can be held as perverse or illegal. The evidence has been read in the right perspective. Moreover, nothing has been pointed out that as to how the judgments are liable to be set aside. Otherwise also, learned counsel for the petitioner has not contested the findings of fact given by the Courts below. Therefore, the conviction of the petitioner for the offences under Sections 386 and 388 IPC is upheld.

As regards the reduction of sentence, I find that the present

petitioner is shown to be 25 years of age in the year 2008 when the judgment was passed. The FIR is of 2007. For the last about 8½ years the petitioner is facing the long protracted criminal proceedings. He was young man at that time. No other conviction has been proved against him. He has already undergone one year, five months and 21 days of actual sentence and has earned remission for 8 days which means that he has almost undergone half of the sentence imposed upon him.

It has also been argued that the petitioner is a poor person and only bread earner of the family. Keeping in view the above facts and circumstances of the present case and above discussion, the sentence of imprisonment of the petitioner is reduced to already undergone. The sentence of fine and in default of fine shall, however, remain the same. If the fine is already not paid, the petitioner will deposit the same within one month, otherwise, the Court below will take necessary action as per law. Since the petitioner is on bail, his bail bonds/surety bonds stand discharged.

The criminal revision petition is disposed of accordingly.

May 6, 2016.

(Inderjit Singh)
Judge

hsp