

Criminal Revision No.3095 of 2013 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 283

Criminal Revision No.3095 of 2013 (O&M)

Date of Decision: *December 07, 2016*

HANS RAJ

..... PETITIONER

VERSUS

STATE OF PUNJAB

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Arun Takhi, Advocate, for the petitioner.

Mr. B.S. Cheema, Deputy Advocate General, Punjab.

Ms. Amandeep Kaur, Advocate for
Mr. J.B.S. Gill, Advocate, for the complainant.

. . .

Jaspal Singh, J.

CRM No.42232 of 2013

Application is allowed as prayed for.

Main Case

1. The instant revision has been preferred by Hans Raj challenging judgment/order dated August 28, 2012, passed by the Judicial Magistrate Ist Class, Hoshiarpur, in case bearing FIR No.267, dated December 01, 2008, under Sections 447, 511, 506 read with Section 34 IPC, registered at Police Station Sadar, District Hoshiarpur as well as judgment dated September 02, 2013, passed

by learned Additional Sessions Judge, Hoshiarpur. Vide judgment/order dated August 28, 2012, he was convicted and sentenced as under:-

Name of Accused	U/s	RI	Fine (₹)	In default (S.I.)
Hans Raj	447 IPC	03 months	---	---
	506 IPC	02 years	---	---

Dis-satisfied with the aforesaid judgment/order of conviction and sentence, the accused – petitioner preferred an appeal wherein, the Lower Appellate Court vide judgment dated September 02, 2013, upheld the conviction, however, reduced the sentence as under:-

Name of Accused	U/s	RI	Fine (₹)	In default (S.I.)
Hans Raj	447 IPC	03 months	---	---
	506 IPC	09 months	---	---

2. While issuing notice of motion on September 30, 2013, following order was passed by a coordinate Bench of this Court:-

*“Notice of motion qua quantum of sentence only for 27.11.2013.
The execution of warrants of arrest shall remain stayed, subject to depositing of Rs.15,000/- before the trial Court.”*

3. This Court has also scrutinized the impugned judgment(s) as well as the relevant document(s)/ evidence and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioner under the aforesaid provisions of IPC is concerned. As such, the conviction of the petitioner is upheld.

4. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and reduced by the lower appellate court. Apart from the fact that petitioner

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is facing the agony of protracted trial for more than a period of 08 years after registration of the instant case and is a sole bread winner of the family. Petitioner had already suffered incarceration for a period of two months & 16 days, as is evident from custody certificate dated December 05, 2016. Thus, this Court is of the considered view that a chance be given to the petitioner to reform & improve himself; to become good responsible citizen/person.

5. Taking into consideration the aforesaid aspects of the case, though, conviction of the petitioner is upheld but the sentence imposed upon him by the courts below is reduced to the period already undergone by him, with no change in fine clause. An amount of Rs.15,000/- already deposited by the petitioner shall be disbursed to the complainant by way of compensation. Petitioner be released forthwith in this case, if his custody is not required in any other case.

6. With the above modification in sentence, revision petition stands dismissed.

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The instant application for suspension of sentence is rendered infructuous since the main petition has been disposed of with modification in sentence imposed upon the petitioner.

December 07, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No