

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

Crl. Revision 3241 of 2013
Date of Decision : May 20, 2016

Raj Pal @ Rinku

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Tarundeep Kumar, Advocate

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

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

The petitioner alongwith Joginder, Mange Ram and Pardeep were tried for committing the offences under Sections 120-B and 392 IPC. During the trial of the case, the three co-accused of the petitioner confessed their guilt and, accordingly, they were convicted vide judgment dated 7.6.2007 passed by the trial Court. The trial proceeded against the petitioner. Vide judgment dated 9/10.1.2012, learned Judicial Magistrate 1st Class, Kurukshetra held him guilty under Section 392 IPC and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 1,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of three months. The fine imposed was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. However, the same was dismissed by learned Additional Sessions Judge, Kurukshetra vide judgment dated 12.9.2013. Still not satisfied, he preferred the present revision which was admitted on

24.1.2014 and he was also granted the concession of bail.

The prosecution case has been stated by the learned lower appellate Court in paras 2 and 3 of its judgment, which are reproduced herein-below:-

“In brief the case of the prosecution is that on 28.2.2006 complainant Baldev moved a complaint before the police on the allegations that complainant was resident of Dhimo, District Yamuna Nagar. He was working as Munim with M/s Bal Krishan & Company, Yamuna Nagar. On 26.2.2006, he had gone to Adampur Bhattu, Alnabad, Sirsa and Fatihabad for taking payment. On 27.2.2006, he started from Sirsa in a canter No. HR-58A-8687. In the night he and Jahangir driver stayed in a hotel near village Teek. On 28.2.2006 at about 7.30 A.M. they reached at Old Bus Stand. The complainant alighted from the tanker and Jahangir took away his canter. When he reached near the gate of Bus Stand, three young boys came on a motor cycle and put the pistol on his temple. They snatched his briefcase in which around Rs. 4,95,000/- were kept.

On the basis of the said complaint, the present case was registered. Statements of the prosecution witnesses under Section 161 Cr.P.C. were recorded. Accused Joginder Singh, Pardeep, Mange Ram and Raj Pal were arrested. On completion of necessary formalities of investigation, challan was prepared and presented in the Court.”

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that on 27.2.2006, complainant Baldev was coming from Sirsa in a Canter which was driven by Jahangir and the petitioner used to work as a Cleaner of the said Canter. On reaching Kurukshetra, the complainant alighted at old Bus Stand for taking the bus for Yamunanagar. Three persons, who were later

cycle and after putting the pistol on his temple, snatched his briefcase containing Rs. 4,95,000/-. These facts have been stated by complainant Baldev Raj while deposing before the trial Court as PW12. The defence could not bring any material on the record to show that there was any enmity between the petitioner and the complainant. On the other hand, the petitioner had knowledge that the complainant was carrying huge amount in his briefcase. On the identification of the complainant, the petitioner was arrested by PW4 HC Ranbir Singh. Subsequent thereto, the petitioner suffered disclosure statement pursuant to which he got recovered cash amount of Rs. 50,000/- besides one mobile phone used by him in the commission of the crime. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the offence under Section 392 IPC.

The petitioner has been facing the agony of criminal prosecution for the last more than ten years. He is stated to be a poor person and sole bread winner of his family. It is also his stand that he is not involved or convicted in any other case. Further, out of the sentence of three years imposed upon him, he has already undergone a period of about one year.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Section 392 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs. 1,000/- is, however, enhanced to Rs. 5,000/-. The enhanced amount of fine be deposited by him with the trial Court within three months from today, failing which he shall undergo simple imprisonment for six months.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

May 20, 2016
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(T.P.S. MANN)
JUDGE