

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1022 of 2014(O&M)
Date of Decision: May 11, 2016

Akhtar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rakesh Dhiman, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Akhtar against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 31.10.2013 passed by learned Judicial Magistrate Ist Class, Gurgaon, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months and to pay fine of ₹2000/- and in default of payment of fine to undergo simple imprisonment for a period of one month under Section 193 IPC and also challenging the judgment dated 11.03.2014 passed by learned Sessions Judge, Gurgaon, vide which appeal filed by petitioner was dismissed.

The brief facts of the prosecution case as noted down in the judgment dated 11.03.2014 passed by learned JMJC, Gurgaon,

are as under:-

"1. The above mentioned complaint under Section 193 of IPC was filed on 28.10.2009 by the complainant Om Parkash Goyal, Reader to Sh.S.K.Gupta, then then Learned Special Judge, Gurgaon against the accused/respondent inter-alia on the allegations that the accused by presenting an application dated 21.05.2007 got a case registered against Paramveer, Head Constable in Police Station Sohna under Section 7 & 13 of the Prevention of Corruption Act, 1988 against FIR No.25 of 21.05.2007 with Police Station State Vigilance Bureau, Gurgaon stating that said Head Constable was demanding from him ₹1000/- as bribe to present the papers in the court pertaining to a case which was got registered against him and other members of his family by one Abbas Ali. On his complaint, a raid was conducted and HC Paramveer was caught red handed while accepting Rs.1000/- as bribe from him. On completion of investigation charge sheet was filed against HC Paramveer for the offence under Section 7 & 13 of the Prevention of Corruption Act, 1988. It is further submitted in the complaint that during the course of trial, the accused did not support the prosecution and turned hostile stating that HC Paramveer had not demanded anything as illegal gratification from him nor he had moved any application against him nor on his complaint any raid was conducted nor in any such raid Head Constable Paramveer was caught red handed while accepting Rs.1000/- as bribe from him. During investigation, his statement under Section 164 Cr.P.C. was also recorded by the Learned Magistrate. When he was confronted with his said statement, he sought to explain the same stating that it was not voluntary statement. The copy of the application moved by the accused on which case was registered is Annexure-I, copy of statement recorded by Learned Magistrate U/S 164 Cr.P.C. is Annexure-II and the statement of the accused recorded during trial as PW11 is Annexure-III. Further the Learned Public Prosecutor moved an application under Section 340 Cr.P.C., copy of which is Annexure-IV, to prosecute the accused for the offence under Section 193 IPC stating that he had made a false statement before the court. Notice of the application was given to the accused. He filed reply to the application admitting that the statement made by him before the court was false, but sought to explain it by stating that he being illiterate person was not aware about the procedure of the court and as his statement was recorded in English, he could not know what was recorded therein. Meaning thereby, the accused himself admitted that he had made a false statement before the Court and his explanation that he being

illiterate person could not understand what was recorded in his statement cannot be accepted, Copy of his reply is Annexure-V. Further that hearing the Learned APP and the accused on application under Section 340 Cr.P.C., the court formed an opinion that it would be expedient in the interest of justice if the accused was prosecuted for the offence under Section 193 IPC and Reader was directed to file a formal complaint to that effect in the Court of Learned Chief Judicial Magistrate, Gurgaon. It is in compliance of said order, the present complaint is being filed. Copy of said order is Annexure-VI. Further, it is prayed to proceed against the accused for the offence under Section 193 of Indian Penal Code and the present complaint be treated as instituted on police report as provided under Section 344 of Code of Criminal Procedure.”

The prosecution examined PW-1 Divya, Ahlmad, PW-2 Om Parkash Goyal, retired Reader and closed the evidence. No witness in defence was examined by the accused.

Learned JMJC, Gurgaon, after appreciating the evidence, convicted and sentenced the accused-petitioner as stated above. An appeal was filed by the accused-petitioner and learned Sessions Judge, Gurgaon, dismissed the appeal vide judgment dated 11.03.2014.

Aggrieved from the above judgments present revision has been filed by the accused-petitioner.

Learned State counsel appeared and contested the petition.

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

At the time of arguments, learned counsel for the petitioner has not pointed out anything on the record to show as to how the

findings given by the Courts below are perverse or against the evidence and law. Nothing has been pointed as to which material evidence has not been considered or which material evidence has been misread by the Court below. No illegality has been pointed out in the judgments passed by the Courts below. There is nothing on the record to show that the judgments passed by the Court below are perverse. Rather, the evidence has been appreciated in right perspective. Learned counsel for the petitioner has not argued anything regarding conviction of the revision petitioner and only prayed for reduction of sentence.

Keeping in view the facts and circumstances of the case and in view of the fact that petitioner is stated to be poor person, only bread of the family, first offender and in view of the fact that the petitioner is suffering from long protracted criminal proceedings since 2009 and he has already undergone imprisonment of 1 month and 17 days out of the total sentence of three months, the sentence of the petitioner is reduced to the sentence already undergone by him, subject to payment of fine awarded by the Courts below, if not paid. The fine is stated to have been paid by the petitioner.

Resultantly, the present revision petition stands partly allowed.

Since the petitioner is on bail, his bail/surety bonds stand discharged.

May 11, 2016
Vgulati

(INDERJIT SINGH)
JUDGE