

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 1532 of 2015

Date of decision : 26.05.2016

Parveen Kumar

....Petitioner

V/s

State of Haryana

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjeev Majra, Advocate for the petitioner.

Ms. Tanushree DAG Haryana.

RAJAN GUPTA J.

Petitioner Parveen Kumar had been convicted by the Addl.
Chief Judicial Magistrate, Kaithal under sections 420, 467, 468, 471 & 411
IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
411 IPC	To undergo R.I. for six months and to pay fine of ₹500/- and in default thereof to further undergo S.I. for one month.
420 IPC	To undergo R.I. for two years and to pay fine of ₹2,000/-and in default thereof to further undergo S.I. for six months.
467 IPC	To undergo R.I. for three years and to pay fine of ₹3,000/-and in default thereof to further undergo S.I. for seven months.
468 IPC	To undergo R.I. for two years and to pay fine of ₹2,000/-and in default thereof to further undergo S.I. for six months.
471 IPC	To undergo R.I. for three years and to pay fine of ₹3,000/-and in default thereof to further undergo S.I. for seven months.

All the sentences are ordered to run concurrently.

Petitioner preferred appeal before Additional Sessions Judge, Kaithal which was dismissed vide judgment dated 30.03.2015. Feeling aggrieved against the judgments of both the courts below, petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

A complaint was received against the petitioner who is proprietor of M/s Frost Falcon Distilleries Ltd Jahari, district Sonipat. It was alleged in the complaint that petitioner had stolen the permit book no. 26 from the office of Excise and Taxation Commissioner (Excise). Kaithal at the time of inspection of his L-13 by Ashok Sharma, ASTO (Ex) alongwith Excise staff. Permits No. 26/2586 dated 16.07.2008 and No. 48/4770 dated 27.08.2008 were also found which were not issued by the Excise Office, Kaithal and these permits were impounded by the inspecting officer and challan was sent to Collector-cum-Additional Excise & Taxation Commissioner, Haryana. On the basis of verifications and documents brought from M/s Frost Falcon Distillery Jahari, district Sonapat, petitioner was found guilty of misappropriating Book no. 26 and maintaining duplicate books no. 46 & 48. Thus, he was found guilty of stealing permit books and

forging official documents causing revenue loss to the department of ₹50,00,000/- approximately. On this basis, instant FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 379, 420, 467, 468, 471, 201 IPC charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as nineteen witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. However, accused did not adduce any evidence in defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 420, 467, 468, 471, 411 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Kaithal on 30.03.2015.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence. He has stated that he is conscious

that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated. According to learned counsel, petitioner has already undergone custody of three months till date.

Learned State counsel has placed on record affidavit of Raj Kumar, Superintendent Jail, Kaithal, according to which petitioner had undergone actual sentence of 01 year, 07 months and 11 days as on 21.03.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to period already undergone by him. Ordered accordingly.

The amount of fine shall be deposited within three months from the date of receipt of certified copy of this order. However, in case aforesaid fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

May 26, 2016

Ajay

(RAJAN GUPTA)
JUDGE