

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1234 of 2016 (O&M)
Date of Decision: April 22, 2016

Prem Pal

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjay Vashisht, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Prem Pal against State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 07.12.2015 passed by learned Judicial Magistrate Ist Class, Panchkula, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of five months under part-1 of Section 174-A IPC and also challenging the judgment dated 24.02.2016 passed by learned Addl. Sessions Judge-I, Panchkula, vide which appeal filed by petitioner was dismissed.

Notice of motion.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana, who is present in the Court, on the asking of the Court accepted notice and contested the petition.

The brief facts of the case as noted down in the judgment passed by learned JMIC, Panchkula are as under:-

“As per the prosecution version, in case pertaining to FIR No.469 dated 28.12.2007, under section 409 IPC, Police Station Sector-5, Panchkula, accused was declared proclaimed offender on 13.06.2008 by the court of the then learned CJM, Panchkula, the gist of the matter was sent to the police station through constable Prayag Kumar. First information report was registered, investigation was initiated by SI Laxmi Chand. Statement of witnesses were recorded. Accused had obtained anticipatory bail from the court of learned ADJ, Panchkula and was enlarged on regular bail on 16.03.2012. After completing the investigation police report was presented in the court.”

Learned JMIC, Panchkula, after appreciating the evidence, convicted and sentenced the petitioner under part-1 of Section 174-A IPC as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge-I, Panchkula vide judgment dated 24.02.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

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

The judgments passed by the Courts below are correct, as per evidence and law. The evidence has been appreciated in right perspective. This is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. This Court is only to see whether the findings given by the Courts below are perverse or against the evidence or some material evidence has been misread or some material evidence has not been

considered by the Courts below. The perusal of the judgments nowhere shows that these are perverse or against the evidence. The concurrent findings given by the Courts below regarding conviction are as per law. The facts that petitioner was residing at Pinjore and the address was given of Faridabad etc. were the finding of fact which were to be given by the Court below. In no way, it can be held that publication has been issued without application of judicial mind by learned Judicial Magistrate.

As regarding the argument that the petitioner has been declared proclaimed offender instead of proclaimed person as per Section 82(4) Cr.P.C., I find that offence under Section 174-A IPC is complete when the accused does not appear on the date, time and place fixed in the publication. The declaring of a person as a proclaimed person or proclaimed offender is the subsequent proceeding i.e. after the commission of offence and will not affect the merits of the case.

Learned counsel for the petitioner, in the alternative, prayed for reduction of sentence.

Keeping in view the facts and circumstances of the present case and the fact that petitioner is stated to be in custody since 24.02.2016 when the appeal filed by him was dismissed i.e. for the last about three months and also in view of the fact that petitioner is first offender, only bread earner of the family and suffering from long protracted criminal proceedings, the sentenced imposed upon the petitioner is reduced to the sentence already undergone by him.

Resultantly, the present revision petition stand partly allowed.

Petitioner Prem Pal, who is in custody, be released forthwith, if his custody is not required in connection with any other case.

April 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE