

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

**Criminal Revision No.1249 of 2016 (O&M)
Date of Decision: 06.05.2016**

Vinay Pal

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

- 1. Whether reporters of local newspapers may be allowed to see judgment?*
- 2. To be referred to reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present:- Mr. Gunjan Mehta, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.A.G., Haryana.

HARI PAL VERMA, J.

Petitioner has filed the present revision petition against the judgment dated 3.2.2016 passed by learned Addl. Sessions Judge, Rohtak, whereby the appeal preferred by the petitioner against the judgment of conviction dated 5.9.2014 and order of sentence dated 6.9.2014 passed by Sub Divisional Judicial Magistrate, Meham has been dismissed.

As per the case of the prosecution, on 24.5.2009, when the police party was on patrol duty at Bus Stand Lakhna Majra, Joginder Pal Singh, AFSO, Meham approached them and gave a complaint saying that on 24.5.2009, a complaint was received

against the petitioner- Vinay Pal, Depot Holder, Village Nidana and accordingly, he along with Raj Singh Hooda, Inspector Food and Supply Department, Meham went to the aforesaid depot. They made physical verification of the depot. As per the Stock Register, 7 quintal and 24 kilogram of wheat, for BPL persons, was balance and the sale registered was filled upto 22.5.2009, however, on physical verification, only 24 kilogram of wheat was found at the spot whereas the remaining 7 quintal of wheat which was to be disbursed to the BPL card holders was not found in the depot, which was illegally disposed off by the depot holder. Accordingly, FIR No.97 dated 24.5.2009 under Sections 406/420 IPC and Section 7 of the Essential Commodities Act, 1955 (For short, "the Act"), Police Station Lakhan Majra, District Rohtak was registered against the petitioner.

After investigation, challan was presented in Court and copies of documents were supplied to the accused free of costs, as envisaged under Section 207 CrPC.

Finding a *prima facie* case, the petitioner-accused was charge sheeted for commission of offence under Sections 406 IPC and Section 7 of the Act, to which he pleaded not guilty and claimed trial.

Learned trial Court, vide judgment of conviction dated 5.9.2013, after hearing the parties and appreciating the evidence on record, held the petitioner guilty of offence under Section 406 IPC and Section 7 of the Act and vide separate order dated

6.9.2016 sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo further imprisonment for a period of one month, for offence under Section 7 of the Act. He was further sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo imprisonment for a period of one month, for offence under Section 406 IPC. All the sentences were ordered to run concurrently.

The aforesaid judgment of conviction and order of sentence, was made subject matter of challenge before learned Addl. Sessions Judge, Rohtak, which was dismissed vide judgment dated 3.2.2016 and thereby, the conviction and sentence of the petitioner was maintained.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition against the judgments passed by the Courts below.

When this case came up for hearing before this Court on 31.3.2016, learned counsel for the petitioner had confined his arguments only *qua* the quantum of sentence and therefore, notice of motion was issued limited to the aforesaid extent only.

Learned counsel for the petitioner while reiterating his arguments contended that the petitioner is depot holder in the village and the allegation against the petitioner is that there was shortage of 7 quintal of wheat meant for BPL card holders.

However, during investigation, the missing stock was found and recovered in an auto rickshaw in 14 gunny bags which had the stamp of Food and Supply Department, which stock was duly identified by the Food and Supply Department. He further submitted that considering the fact the petitioner belongs to a poor family and as against the awarded maximum sentence of six months, he is in custody for the last more than three months and he is not a habitual offender, the sentence of the petitioner may be reduced to the period already undergone by him.

Learned State counsel does not dispute custody period of the petitioner.

I have heard learned counsel for the parties and gone through the record of the case.

Considering the totality of facts and circumstances of the case, this Court do not find any infirmity in the judgments passed by the Courts below, however, taking into account the fact that as against the awarded maximum sentence of six months, he is in custody for the last more than three months, this Court feels that ends of justice will be met if the sentence of the petitioner is reduced to the period already undergone by him.

Accordingly, while upholding the judgments passed by the Courts below, the present revision petition is dismissed, however, the sentence awarded to the petitioner is reduced to the period already undergone by him. The petitioner shall be

released forthwith, if not required in any other case, subject to payment of fine, if not paid.

May 06, 2016
AK

(HARI PAL VERMA)
JUDGE