

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

CRR No.1349 of 2016 (O&M)
Date of Decision: May 25, 2016

Mohd. Faqurudeen

...Petitioner

VERSUS

State of U.T.

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Joginder Kumar, Advocate for
Mr.A.P.S.Shergill, Advocate
for the petitioner.

Mr.Gautum Dutt, Standing counsel
for U.T. Chandigarh.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Mohd. Faqurudeen against U.T. Chandigarh, challenging the impugned judgment of conviction and order of sentence dated 04.02.2015 passed by learned Addl. Chief Judicial Magistrate, Chandigarh, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one and half years under Section 5 read with Section 8 of the Punjab Prohibition of Cow Slaughter Act, 1955 and to undergo rigorous imprisonment for a period of six months under Section 153 IPC-2nd Part and also challenging the judgment dated 29.02.2016 passed by learned Sessions Judge, Chandigarh, vide which appeal filed by petitioner was partly allowed and the sentence of the petitioner was reduced to undergo rigorous

imprisonment for a period of one year under Section 5 and 8 of Punjab Prohibition of Cow Slaughter Act, 1955 and three months under Section 153 IPC-2nd Part. Both the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner Mohd. Faqurudeen in case FIR No.259 dated 24.08.2006 under Sections 295, 298-A, 153-A&B, 506, 120-B IPC and Sections 5 and 8 of the Punjab Prohibition Cow Slaughter Act.

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

“In nutshell, story of the prosecution is that on 24.8.2006 SI Harbhajan Singh, HC Malook Singh and other police officials were on patrolling duty in the area of Police Post Bapu Dham Colony, Sector 26, Chandigarh when the complainants Raj Kishore and Lynewr met them and they handed over to them the accused Mohd. Faqrudin alongwith two bags containing Beef and a scooter and a written complaint alleging therein that they were social workers and were engaged in the protection of Godhan and on 24.8.2006 at around 11.30AM they received an information that Mohd. Faqrudin, his wife Gulshan and his other associates are engaged in illegal business of selling Beef at HouseNo.65,Phase II, BDC, Sector 26, Chandigarh. They immediately reached at the spot alongwith their other workers and caught Mohd. Faqrudin red handed selling Beef. They recovered two gunny bags of Beef from the custody of accused Mohd. Faqrudin kept in fridge and also in open. His wife and other associates managed to run away from the spot. When the complainant and others asked the accused Mohd. Faqrudin, he told that he had been selling the Beef for years after killing cows and is selling and exporting Beef at Burial, Colony No.5, Mauli Complex, Indira Colony, Dadu Majra, Kumhar Colony

and also to various cities of Punjab and that when they asked him that the killing of cows and selling the beef hurts the sentiments of Hindus and Sikhs, then the accused threatened them that he did not care about their sentiments and their religion teaches them to kill Kafir, Hindus and Sikhs. The accused further said that he did not care that Hindus treat cows as their mother and he was not bothered that by his acts riots will be ignited between the two communities and that if the riots happens they intend to kill Hindus. The accused further told them that he did not care about the national unity and integrity and his faith and commitment was towards Islam and not towards India. The accused also threatened them of dire consequences and abused them and told them that if they interfere in his business, he is going to kill them. On the basis of this information, FIR was registered. Matter was investigated. Rough site plan of the place of occurrence was prepared. Accused were arrested. On completion of investigation challan was prepared and presented against the accused.”

Learned ACJM, Chandigarh, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was partly allowed by learned Sessions Judge, Chandigarh vide judgment dated 29.02.2016.

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

Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family and he is suffering from the criminal proceedings for the last more than 10 years and has already undergone imprisonment of 3 months and 9 days including remission out of the total sentence.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is first offender, only bread earner of the family and is suffering from long protracted criminal proceedings since

2006 i.e. for the last about 10 years and in view of the fact the petitioner has already undergone imprisonment of 3 months and 9 days including remission of 8 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, will remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner Mohd. Faqurudeen, who is in custody, be released forthwith if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

May 25, 2016
Vgulati

(INDERJIT SINGH)
JUDGE