

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR-2613 of 2015 (O&M)
Date of Decision: May 11, 2016.

Pankaj Kumar @ Lucky

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

Ms.Rajni Gupta, Addl.A.G, Punjab

Rajan Gupta, J (Oral)

Petitioner had been convicted by Judicial Magistrate Ist Class,
Gurdaspur under Sections 454 & 380 IPC and was sentenced to undergo
imprisonment as under:-

Offence	Sentence
454 IPC	To undergo R.I for two years and to pay fine of Rs.500/-.
380 IPC	To undergo R.I for two years and to pay fine of Rs.500/-.

The petitioner preferred appeal before Additional Sessions
Judge, Gurdaspur against the judgment of his conviction/sentence and the
same was dismissed vide judgment dated 6.4.2015. 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:-

On 7.11.2009, complainant Rajinder Singh made a statement before ASI-Satpal Singh, Police Station, Dhariwal, District, Gurdaspur to the effect that on 6.11.2009 at about 3.30 pm, he had come to his house after taking half leave from his department and found that main gate of his house was in broken condition and when he entered his house, he saw Pankaj Kumar @ Lucky and on seeing him, accused tried to run away from his house. Complainant tried to apprehend him but he ran away from the spot. In the meantime, his wife, who is also working woman, found that lock of Godrej almirah in broken condition and on checking found that Rs.48,000/- alongwith two gold kara were stolen. On the statement of the complainant, FIR was registered and accused was arrested accordingly.

Finding prima facie case under Sections 454 & 380 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 five 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 same and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of evidence on record, learned trial court held the petitioner guilty of the charges under Sections 454 & 380 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by Additional Sessions Judge, Gurdaspur vide orders dated 6.4.2015.

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 on the ground that the petitioner is a poor person and main bread winner of his family. 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.

Learned State counsel has placed on record affidavit of Davinder Kumar Sidhu, Superintendent, Central Jail, Gurdaspur, according to which the petitioner had undergone actual custody of 1 year, 5 months and 18 days as on 10.5.2016.

Keeping in view the facts and circumstances of the case, it is

directed that the sentence awarded to the petitioner shall be reduced to one year and six months.

Except with modification in the quantum of sentence as indicated herein above, the revision petition is dismissed.

(Rajan Gupta)
Judge

May 11, 2016.
BB