

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Revision No. 1883 of 2016(O&M)
Date of Decision:-03.08.2016

Sunil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr.Nipun Vashist, Advocate for the petitioner.

Mr.Arun Kumar, AAG, Haryana.

HARI PAL VERMA J.(Oral)

The petitioner has filed instant revision petition against the judgment dated 26.04.2016 passed by learned Additional Sessions Judge, Rewari, whereby his appeal filed against the judgment of conviction dated 18.07.2014 and order of sentence 19.07.2014 passed by learned Judicial Magistrate Ist Class was dismissed with modification in the order of sentence and sentence was reduced to six months.

Vide judgment judgment of conviction dated 18.07.2014, learned Magistrate held the petitioner guilty for commission of offence under Section 224 IPC and vide order dated 19.07.2014, sentenced him to undergo simple imprisonment for a period of two years along with fine of Rs.2,000/- and in default thereof, to further undergo simple imprisonment for a period of three months.

Briefly stated, on 24.07.2013, the other co-accused, namely, Ravi @ Aalu @ Baljit and Sunil (present petitioner) who were absent from

the Court and proclamation against them was issued in FIR No.324 dated 29.11.2008 under Sections 323, 427, 452, 506 read with Section 34 IPC Police Station City Rewari, had surrendered before the Court of Smt. Sunita Gupta JMIC Rewari. Learned Magistrate has ordered for their judicial custody till 10.05.2013. All accused were taken into custody by the Nayab Court constable Jai Prakash and were made to sit in the Court room. However, when the Nayab Court was preparing the custody warrants, accused 'Sunil' (present petitioner) and 'Aalu' fled away from the Court. They were chased by Nayab Court and Constable Raj Kumar were caught near the motorcycle parking at 12.30 PM. They were produced before the Court, whereupon FIR under Section 224 IPC was registered against them. Accordingly, the statements of prosecution witnesses were recorded. The site plan of the spot was prepared.

On completion of investigation, challan was presented in Court against both the accused for trial under Section 224 of IPC.

Copies of Challan were supplied to the accused free of costs as envisaged under Section 207 of Cr.P.C. On being charged-sheeted under Section 224 of Indian Penal Code, the accused pleaded not guilty and claimed trial.

The prosecution, in support of its case, has examined ASI Shri Bhagwant as PW-1, ASI Yaswant Singh as PW-2, complainant Ct. Jai Parkash as PW3, eye witness Ct. Raj Kumar as PW4, Head Constable Hawa Singh as PW-5 and EHC Vinod Kumar as PW6 and closed its evidence.

The statements of the accused were recorded under Section

313 Cr.P.C. wherein they denied all the allegations levelled against them and claimed themselves to be innocent. However, no evidence has been led by the accused in their defence.

Considering the evidence so adduced, the trial Court vide judgment of conviction dated 18.07.2014 and order of sentence 19.07.2014 had convicted and sentenced the petitioner in the manner as mentioned above.

The petitioner-accused preferred an appeal against the said judgment of conviction and order of sentence before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Rewari vide judgment dated 26.04.2016, however, sentence is reduced from 02 years of simple imprisonment to 06 months imprisonment.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

Vide order dated 19.05.2016, this Court has issued notice regarding quantum of sentence only. Thus, learned counsel for the petitioner has not challenged the present revision petition on merits and restricted his arguments qua the quantum of sentence only. He has further contended that the sentence imposed upon the petitioner is excessive and harsh.

Learned counsel for the petitioner contends that an FIR No. 324, dated 29.11.2008 for offence under Sections 323, 427, 452, 506 read with Section 34 IPC, registered at Police Station City Rewari was registered against the petitioner. In the said case, he has surrendered before the learned Magistrate on 27.04.2013 and the Court has ordered for

judicial custody till 10.05.2013. He further submits that the petitioner was taken into custody by the Nayab Court constable Jai Prakash and made to sit in the Court room. When Nayab Court was preparing the custody warrants, the petitioner-Sunil and other accused Aalu had gone out from the Court. However, petitioner and other accused persons were chased by Nayab Court and Constable Raj Kumar and were caught near motorcycle parking at 12.30 PM.

He also submits that at the most the petitioner remained out of judicial custody for about 30 minutes, as in the morning he has surrendered before the Court in the aforesaid FIR. Moreover, being out of judicial custody for 30 minutes, he has been sentenced for 06 months which is excessive. The petitioner is already in custody for more than 03 months for this count.

On the other hand, learned counsel for the State submits that the act of the petitioner who remained out of judicial custody even for 30 minutes is a serious offence and, therefore, there is no illegality in the order passed by the Courts below.

I have heard learned counsel for the parties.

In order to determine the question of quantum of sentence, the Courts of law ought to weigh the degree of the culpability of the accused, its effect on others and the impact on the society. It is also of utmost importance that unnecessary leniency may not be shown while sentencing an accused as it might have a cascading effect on the society as a whole. While sentencing, both sides of the fulcrum have to be maintained at straight line and a balance has to be struck between the interest of the

individual and the well being of the society.

No doubt, a harsh punishment may serve as a deterrent, but at the same time, it would not benefit the convict in reforming himself, and thereby divesting the society of one of its constituents. The accused can learn more in society than in the company of criminals who are convicts.

Considering the fact that the absence of the petitioner at the most is for 30 minutes, as he was made to surrender before the Court at 12.30 PM is within 30 minutes of his escape with the efforts of Nayab Court as well as in view of the totality of the facts and circumstances of the present case, this Court feels that ends of justice would be met if the sentence awarded to him is allowed to be reduced to the period already undergone by him.

Accordingly, while upholding the judgments of conviction 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.

With the aforesaid modification in order of sentence, the present revision petition stands dismissed

(HARI PAL VERMA)
JUDGE

August 03, 2016
Anjal

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No