

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

Criminal Revision No.1957 of 2016

Date of Decision: 05.09.2016

Bhupinder @ Vicky @ BhupiPetitioner(s)

Versus

State of HaryanaRespondent(s)

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.Balkar Singh, Advocate for the petitioner(s).

Mr. Arun Kumar, AAG, Haryana.

HARI PAL VERMA, J. (ORAL)

Petitioner-Bhupinder @ Vicky @ Bhupi , has filed the present revision petition challenging judgment dated 11.05.2016 passed by learned Additional Sessions Judge, Ambala, vide which the criminal appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 17.11.2015 passed by learned Judicial Magistrate 1st Class, Ambala, was dismissed with modification in the order of sentence.

Learned Magistrate vide judgment dated 17.11.2015 has held the petitioner guilty of offence punishable under Section 411 IPC and vide separate order of even date, sentenced him to undergo simple imprisonment for one year.

Briefly stated, on 24.08.2014, the complainant, namely, Gurmukh Singh had gone to cloth market to purchase the clothes on his

motorcycle bearing registration No.HR-01M-9130 Make Hero Honda Passion. He parked his motorcycle opposite the Bus Stand Market, Ambala City. At about 7.00 P.M. when he came back, he did not find his motorcycle. Accordingly, the matter was reported to the police.

On the basis of the abovesaid, complaint-FIR was lodged. During investigation, accused was arrested. Other formalities of investigation were conducted and, thereafter, challan was prepared and presented before the Court.

Finding prima facie case, the accused-petitioner was charge-sheeted for commission of offence punishable under section 411 IPC, 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 the petitioner-accused pleaded his false implication and claimed innocence. The appellant-accused did not lead any defence evidence despite availing opportunities.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under Section 411 IPC and sentenced him to undergo simple imprisonment for a period of one year.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Ambala, but the same was dismissed vide judgment dated 11.05.2016 with modification in the order of sentence, as

punishment awarded to the petitioner-accused was reduced from the period of one year to simple imprisonment for a period of six months.

It is in these circumstances that the petitioner has filed the present revision petition challenging the verdicts of the Courts below.

Learned counsel for the petitioner-accused without arguing the case on merits has confined his arguments qua quantum of sentence only and, as such, this Court had issued notice of motion on the point of quantum of sentence only vide order dated 28.05.2016.

Learned counsel for the petitioner-accused contends that as against the awarded sentence of 06 months for offence punishable under Section 411 IPC, the petitioner-accused is in custody for last about 05 months. He further submits that though one another case i.e. FIR No.150 of 2014 for offence under Sections 379 IPC at Police Station, Parao, was registered against him, but in that he has already been acquitted and in this manner, there is no other case registered against him. Therefore, he has prayed that sentence of the petitioner may be reduced to the period already undergone by him.

Learned State counsel has produced custody certificate of the petitioner-accused, which is taken on record. He has not disputed the custody of the petitioner-accused as well as the fact that in FIR No.150 of 2014, he has already been acquitted.

Heard.

Since the present revision petition has not been contested by the petitioner-accused on merits, the impugned judgments dated

17.11.2015 and 11.05.2016 passed by the trial Court and the appellate Court respectively, are upheld, however, considering the fact that the petitioner-accused is suffering the agony of trial since 24.08.2014 when the FIR in question was registered and as against the total sentence of 06 months, he has remained in custody for about 05 months, coupled with the fact that there is no other case pending against him, sentence is reduced to the period already undergone by him. However, the amount of fine imposed by the trial Court shall remain intact.

The petitioner be released from custody forthwith, if not required in any other case, subject to payment of fine, if not paid.

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

(HARI PAL VERMA)
JUDGE

September 05, 2016
'Anjal '

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No