

CRR No. 3257 of 2015 (O&M)
DECIDED ON: FEBRUARY 10, 2016

.....PETITIONER

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

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

Present: Mr. Rajesh K. Dhiman, Advocate
for the petitioner.

Mr. Rajpreet S. Sidhu, AAG, Punjab.

Challenge in this revision petition is to the judgment of conviction and order of sentence dated November 12, 2014 passed by learned Judicial Magistrate Ist Class, Rajpura in case FIR No. 83 dated April 09, 2008, under Sections 353 and 186 IPC registered at Police Station City Rajpura, whereby petitioner has been convicted under Sections 353 and 186 IPC and sentenced to undergo RI simple imprisonment for a period of one year alongwith fine. The said judgment and order of sentence was affirmed by learned Additional Sessions Judge, Patiala vide its judgment dated August 03, 2015. All the substantive sentences were ordered to run concurrently.

2. Briefly stated the facts of the instant case are that on April 09, 2008

complainant Vir Pal was on Santri duty and at about 4.20 PM one Maruti Car bearing registration No. CHF 0167 of white colour being driven by one Sikh person at very high speed and rashly tried to enter in the Police Station. He tried to stop the said person due to security purpose but the said person immediately after alighting from the car pushed him proclaiming that he is Jathedar of Akali Dal. The said person pulled the left shoulder of uniform and thrown the same after being removed from the dress. The said person stated that he is Gurdeep Singh son of Hajura Village Alamdipur, Police Station Ganaur. Upon statement of complainant FIR was got registered.

3. After completion of investigation, challan against the accused was presented in the court of jurisdictional Magistrate. Copies of the documents as required under Section 207 Cr.P.C. were supplied to him.

4. Finding a prima facie case against the accused, he was charge-sheeted under Section 186 and 353 IPC to which he pleaded not guilty and claimed trial.

5. In order to prove its case prosecution examined as many as six witnesses.

6. Incriminating circumstances appearing in the prosecution evidence were put to accused in his statement under Section 313 Cr.P.C. who denied the same, pleaded innocence and false implication. Though, accused opted to lead evidence in defence but no defence evidence was led.

7. After hearing learned counsel for the parties and having gone through the material on record, accused was held guilty under Sections 186 and 353 IPC. Accordingly, convicted and sentenced, as detailed above.

8. Appeal preferred by him also failed before the lower Appellate

Court. At this backdrop of facts, instant revision petition has been preferred by the accused-Gurdeep Singh.

9. Here it would be pertinent to mention that at the time of issuance of notice of motion, petitioner did not challenge his conviction on merits and only confined his relief qua quantum of sentence. This Court has also scrutinized the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioner is concerned. As such, the conviction of the petitioner is upheld.

10. As far as the quantum of sentence is concerned, learned counsel for the petitioner has submitted that petitioner is a first offender. No other case of similar nature is either pending or disposed of against the petitioner. He never misused the concession of bail during trial. He has already undergone more than 06 months, out of total substantive sentence of one year. Accordingly, he prays that sentence imposed upon the petitioner be reduce to the period already undergone by him.

11. This Court has given an anxious thought to the submissions made by learned counsel for the petitioner and have gone through the record available on file.

12. As per custody certificate dated February 09, 2016, by now, petitioner has already undergone more than six months out of total sentence o one year.

13. Undoubtedly, petitioner is facing the agony of protracted trial since the date of registration of FIR i.e. April 09, 2008 and is also cooling his heels behind the bars since the date of his arrest. He has to support his family. A

glance at the custody certificate makes it crystal clear that petitioner has already undergone 06 months and 06 days out of total substantive sentence of 01 years. He has also asserted himself not to be a previous convict.

14. Taking into consideration the above narrated discussion as well as the fact that petitioner has not challenged his conviction on merits, while affirming his conviction, the order of sentence is modified to the extent to the period already undergone by him with no change in the fine clause, which is stated to be already deposited with the trial Court.

15. With the aforesaid modification in the quantum of sentence, the revision petition stands dismissed. Petitioner is ordered to be released forthwith from custody.

CRM No. 28558 of 2015

In view of the disposal of the main revision petition, this application has rendered infructuous. The same is dismissed as such.

FEBRUARY 10, 2016
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(JASPAL SINGH)
JUDGE