

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

CRR No.2604 of 2016 (O&M).
Decided on:-23.09.2016.

Rajwinder Singh @ Laddi.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab
for the respondent-State.

HARI PAL VERMA, J.

Petitioner Rajwinder Singh @ Laddi son of Bhajan Singh, resident of village Jagatpur, P.S. Mukandpur, District SBS Nagar has filed present revision petition challenging the judgment dated 13.6.2016 passed by learned Additional Sessions Judge, SBS Nagar, vide which the criminal appeal preferred by him against the judgment of conviction and order of sentence dated 27.1.2015 passed by learned Chief Judicial Magistrate, SBS Nagar, was dismissed.

Learned Magistrate vide judgment dated 27.1.2015 convicted the petitioner for offence punishable under Section 380 IPC and vide separate order of even date, sentenced him to undergo rigorous

imprisonment for a period of one year and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for 15 days.

Briefly stated, prosecution version is that on 29.07.2011, when SI Balwinder Singh along with other police official was going on patrolling duty in the area of village Karnana towards Sahlon and Ghataron, Salinder Kaur wife of Surinder Singh met the police party. She got recorded her statement to the effect that she was working in Civil Veterinary Dispensary, Sahlon. She was alone in the said dispensary as the main doctor was on leave. At about 11.30 a.m., a clean-shaven person came on his Platina motorcycle bearing registration No.PB-32C-7476 and stated that he belonged to village Karnana and his buffalo was seriously ill. On this, she told him that she would intimate the doctor telephonically. When she was about to call the doctor, the accused snatched her gold chain and locket and even inflicted injuries on her during the snatching. She raised an alarm, but nobody turned up as it was a rainy day and there were few commuters. Later on, she came to know about the accused as Rajwinder Singh @ Laddy s/o Bhajan Singh, resident of village Jagatpur. She further stated that said gold chain was gifted to her by a relative.

On the basis of statement of the complainant, FIR No.90 dated 29.7.2011 under Section 392/34 IPC was registered against the petitioner-accused. Investigation proceedings were initiated. The accused was arrested and his personal search was conducted. The accused got recorded his confessional statement before the Investigating Officer and the gold chain

along with locket was recovered from him. Statements of the witnesses were recorded. After completion of necessary formalities, Challan against the accused was presented in the Court.

On presentation of Challan, copies of the same were supplied to the accused as required under section 207 Cr.P.C. On finding a prima facie case, the petitioner-accused was charge-sheeted for commission of offence punishable under Section 394 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as five witnesses including complainant Salinder Kaur as PW1, Investigating Officer SI Balwinder Singh as PW2, Dr. Satinderjit Kaur as PW3, Dr. Kulwant Singh as PW4 and Surinder Mohan as PW5.

Thereafter, statement of the petitioner-accused was recorded under Section 313 Cr.P.C. wherein the incriminating evidence was put to him, but he took the plea that he was innocent and a false case has been registered against him. However, no evidence was led by the accused in his defence.

Considering the evidence so adduced, the trial Court vide its judgment and order dated 27.1.2015 had convicted and sentenced the petitioner-accused in the manner as mentioned above.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the Court of Session. However, the appeal was dismissed by learned Additional Sessions

Judge, SBS Nagar vide judgment dated 13.6.2016.

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

During the course of arguments, learned counsel for the petitioner has not challenged the conviction of petitioner and has confined his arguments qua the quantum of sentence only. He has contended that as against the awarded sentence of one year, the petitioner has already undergone imprisonment for a period of 5 months and 7 days as actual sentence. Besides this, he has also earned remission of 1 month and 10 days and as such, the total custody comes to 6 months and 17 days. There is no other criminal case pending against him. He has further contended that the petitioner is a first time offender and is sole bread-winner of his family. The FIR in question was registered against him on 29.7.2011 and in this manner, he has been suffering the agony of criminal proceedings for the last more than 5 years. Thus, he has prayed that sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but opposed the plea of taking liberal view, as raised by learned counsel for the petitioner. The custody certificate produced by learned State counsel in the Court today, is taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated

the evidence on record while holding the petitioner guilty for commission of offence under Section 380 IPC. The appellate Court has also rightly dismissed the appeal. There is no infirmity, illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court. Even otherwise, during the course of arguments, learned counsel for the petitioner has not assailed the judgments of conviction and restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, thus, affirmed.

However, as regards plea of the petitioner that he is a first time offender; no other case is pending against him; has been suffering the agony of criminal proceedings since 29.7.2011, the date when the FIR in question was registered against him, and as against the awarded sentence of one year, he has already undergone 6 months and 17 days including remission, this Court finds that prayer made by learned counsel for the petitioner for reduction of sentence of the petitioner to the period already undergone by him, carries weight.

Therefore, taking into consideration the submissions raised by learned counsel for the petitioner, this Court feels that the ends of justice would be met in case the sentence awarded to the petitioner is reduced to the period already undergone by him. Ordered accordingly.

However, it is made clear that the sentence qua fine of Rs.1,000/- imposed upon the petitioner shall remain intact. In case the petitioner is not required in any other case, he be released from custody

forthwith on his depositing the amount of fine imposed upon him, if not paid so far.

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

September 23, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No