

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-314-2016 (O & M)
Date of decision:25.04.2016

Rajesh Kumar
...Petitioner(s)

Versus

State of Haryana
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Virender Soni, Advocate,
for Mr. Karan Singh, Advocate,
for the petitioner(s).

Ms. Tanushree, DAG, Haryana.

Rajan Gupta, J. (oral)

Petitioner Rajesh Kumar had been convicted by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, under sections 379/411 IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
379 IPC	To undergo R.I. for six months and to pay fine of ₹1000/- and in default thereof to further undergo S.I. for one month.
411 IPC	To undergo R.I. for six months and to pay fine of ₹1000/- and in default thereof to further undergo S.I. for one month.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by the Sessions Judge, Yamuna Nagar, vide judgment dated 07.12.2015.

Feeling aggrieved against the judgments of both the courts below, the 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 18.04.2012 at around 2.15 p.m., the complainant-Shashi Bala, was going on foot through Lathmaran street towards Khera Bazar, Jagadhri. When she reached near the house of Sat Parkash, an unknown boy came from behind and put hand on her neck to snatch her gold chain. She caught her locket, which remained in her hand and the boy succeeded in taking away the chain. On the basis of the complaint, cases under Section 356/379 IPC was registered. During investigation, the present petitioner Rajesh Kumar was arrested on 22.04.2012. He made disclosure statement that on 18.04.2012, he had snatched a gold chain of a woman in Lathmaran street Jagadhri. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 379/411 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 incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 379/411 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Sessions Judge, Yamuna Nagar.

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 first offender, has old aged parents and is sole 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 Vivek Sangwan, Deputy Superintendent Jail, District Jail, Yamuna Nagar. According to which the petitioner had undergone 05 months 14 days including remissions.

Incident occurred 04 years ago in which the accused was found guilty of offence under Sections 379/411 IPC. Stand of the State is that in case this court intends to maintain the conviction of the petitioner and reduce the quantum of sentence to that already undergone, State would have no reason to stand in the way of such orders.

Thus, keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him. However, fine imposed shall remain intact.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

25.04.2016
sukhpreet

(RAJAN GUPTA)
JUDGE