

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

CRR No.3362 of 2016 (O&M)
Date of Decision: November 08, 2016

Phool Chand

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.M.S.Randhawa, Advocate
for the petitioner.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Phool Chand against respondent State of Haryana, challenging the impugned judgment of conviction dated 25.01.2016 and order of sentence dated 27.01.2016 passed by learned Chief Judicial Magistrate, Narnaul, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of one month under Section 379 IPC and also challenging the judgment dated 01.09.2016 passed by learned Sessions Judge, Narnaul, vide which appeal filed by petitioner was dismissed.

Notice of motion was issued and learned State counsel

appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.279 dated 16.07.2014. The brief facts of the case as noted down in the judgment passed by learned CJM, Narnaul, are as under:-

“The accused above-named has been sent up to face trial by the SHO of Police Station City, Narnaul on the allegations that on 16.07.2014 ASI Devender Singh was present in the Police Post when a VT message was received from Control Room that someone had committed theft of money from a child at Bus Stand, Narnaul. The thief had also been apprehended by the Police. Upon the information he alongwith HC Rakesh reached the spot where Sandeep (the child) alongwith several other persons were found present. He got a statement recorded that he was a student of 5th Class and his father worked in the Slipper Godwan at Khedki, Gurgaon. On 16.7.2014 his father had given him Rs.5100/- apart from bus fare. He was going to his village Bhakhari to deliver the money to his uncle Sumer. A person boarded the bus from the Ateli Bus Stand and sat with him. He started taking with him. He boarded the bus at Narnaul Bus Stand with him at about 8:30 P.M. Both of them were sitting on the cement seat of the Bus Stand then he slowly took out Rs.5100/- from his pocket and started walking away. When he checked his pocket the money was not found, he raised a hue and cry. Two persons come there caught hold the thief who revealed his name Phool Chand son of Mam Chand and Rs.5100/- were recovered from his pocket. One person called the police. He pleaded for appropriate action against the accused. Upon information a formal FIR was registered and investigations were commenced.”

Learned CJM, Narnaul after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Sessions Judge, Narnaul, vide judgment dated 01.09.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did

not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is poor person, first offender and he is suffering from the criminal proceedings since 2014. Learned counsel for the petitioner further contended that petitioner has already undergone actual sentence of 1 month and 7 days.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is facing criminal proceedings since 2014 i.e. for the last about two years and is first offender and also in view of the fact that petitioner has already undergone imprisonment of 1 month and 7 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and default thereof, shall remain the same.

Resultantly, the present revision petition stands partly allowed.

Petitioner Phool Chand, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

November 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No