

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 234

Criminal Revision No.693 of 2016 (O & M)

Date of Decision: May 09, 2016

Polu Ram Chahel

..... PETITIONER

VERSUS

Rameshwar Dayal

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

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?

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PRESENT: - Mr. Raj Kumar Rana, Advocate, for the petitioner.

Mr. Ram Kumar Saini, Advocate, for the respondent.

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Jaspal Singh, J

1. The instant revision has been preferred by Polu Ram Chahel challenging judgment dated December 21, 2015 passed by learned Additional Sessions Judge, Ambala, whereby his appeal against judgment dated January 4, 2014 passed by the trial court has been dismissed, however, in view of compromise dated May 20, 2015, order of sentence dated January 31, 2014 has been modified to the extent that he shall undergo simple imprisonment for six months and shall pay compensation of ₹ 50,000/- to complainant within three months from the date of release from jail, and in case of failure, the complainant shall also get interest @

9% per annum on the amount of compensation from the date of decision of appeal till the date of realization. Earlier, the petitioner was convicted vide judgment dated January 4, 2014 passed by the Judicial Magistrate Ist Class, Ambala in a complaint under Section 138 of the Negotiable Instruments Act, 1881 and sentenced vide order dated January 31, 2014 to undergo simple imprisonment for six months and to pay the cheque amount i.e. ₹ 1,10,000/- with interest @ 9% from the filing of complaint till its realization.

2. While issuing notice of motion on February 18 2016, this Court passed the following order:-

“CRM-5698-2016

After hearing learned counsel for the applicant and going through the contents of the application, the same is allowed and the applicant is granted exemption from filing certified copies of the judgment of conviction dated 04.01.2014 and order of sentence dated 31.01.2014 passed by learned Judicial Magistrate First Class, Ambala and grounds of appeal filed before learned Appellate Court and from filing fair typed copies of the same and that of the judgment dated 21.12.2015 passed by learned Additional Sessions Judge, Ambala.

CRR-693-2016

Challenge in this criminal revision petition is to the judgment dated 21.12.2015 passed by learned Additional Sessions Judge, Ambala, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, recorded by learned Judicial Magistrate First Class, Ambala, was dismissed.

At the very outset, learned counsel for the petitioner contends that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioner. However, he submits that in view of the circumstances of the case, the sentence awarded by the Courts below is on higher side.

Notice of motion for 18.03.2016 with regard to quantum of sentence only.”

3. This Court has also scrutinized the impugned judgments as well as the relevant document(s)/ 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 petitioners under the aforesaid provisions of IPC is concerned. As such, the conviction of the petitioners is upheld.

4. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and upheld by the lower appellate court. Apart from the fact that petitioner is facing the agony of protracted trial for the last more than 4 years after registration of the instant complaint, he is the only bread winner in the family and a source for livelihood for his old aged parents. Accused – petitioner is first offender. There is no other case of similar nature, either pending or disposed of, against the petitioner. Thus, this court is of the considered view that a chance be given to the petitioner to reform & improve himself; to become a good citizen; and to lead a peaceful & harmonious life.

5. Taking into consideration the aforesaid aspects of the case, though, conviction of the petitioner is upheld but the sentence imposed him by the courts below is reduced to the period already undergone by him, with no change in fine clause.

6. With the above modification in sentence, revision petition stands dismissed.

May 09, 2016
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(Jaspal Singh)
Judge