

CRR-2319-2011

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

**CRR-2319-2011 (O & M)
Date of Decision: 04.10.2017**

Mukesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Subhash Godara, legal aid counsel,
for the petitioner.

Mr. Kuldeep Sharma, DAG, Haryana.

INDERJIT SINGH, J.

The present revision has been filed by petitioner-Mukesh against respondent-State of Haryana under Section 401 Cr.P.C., challenging the impugned judgment of conviction dated 01.03.2011 and order of sentence dated 03.03.2011 passed by learned Judicial Magistrate Ist Class, Bhiwani, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of one and half years and to pay a fine of ₹200/- for the commission of offence under Section 205 of IPC and further sentenced to undergo simple imprisonment for a period of one and half years and to pay a fine of ₹200/- for the commission of offence punishable under Section 419 of IPC and in default of payment of fine, the petitioner was further ordered to undergo simple imprisonment for a period of ten days and also challenging the judgment dated 09.09.2011 passed by learned Additional

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Sessions Judge, Bhiwani, vide which appeal filed by the petitioner was dismissed.

Notice of motion was issued. Learned State counsel put in appearance on behalf of the respondent-State and contested this revision.

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

From the record, I find that challan was presented against the petitioner in FIR No.154 dated 31.07.2006, under Sections 205 and 419 of IPC, registered at Police Station Civil Lines, Bhiwani. The brief facts of the case, as noted down in the impugned judgment passed by learned Judicial Magistrate Ist Class, Bhiwani, are as under:

“2. Briefly stated the facts of the prosecution case are that on 31.7.2006 a telephonic message was received from EASI Harpal Singh Naib Court to the ACJM, Bhiwani to the effect that Mukesh son of Raghbir Singh has marked his presence in respect of another accused. Thereafter ASI Abhey Singh reached the court complex where accused Mukesh was presented by Naib Court Harpal Singh alongwith letter No.518 dated 31.07.2006 to the effect that today i.e. 31.7.2006, the case titled as State Versus Sadhu Ram and others bearing FIR No.247 dated 2.7.2001 under Sections 148, 149, 323, 427, 447 IPC, police station Sadar Bhiwani was listed for prosecution evidence. One person stating himself as accused Balia signed the order-sheet as token of his presence but it was stated by PW Prem son of Giyani Ram that the person who is stating himself as accused Balia is not accused Balia, rather he is Mukesh son of Raghbir, resident of village Govindpura. Thereafter, on inquiry, said person disclosed his name as Mukesh son of Raghbir, resident of village Govindpura and stated that accused Balia is his brother and he has gone out of station. Therefore, he has appeared on his behalf. Mukesh has thus committed an offence of impersonation while appearing in the name of accused Balia and action was sought against accused Mukesh.”

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In support of its case, the prosecution got examined Prem as PW 1, Constable Shiv Kumar as PW 2, Inspector Vijay Pal as PW 3, Shri V.P.Sirohi, ADSJ as PW 4, Rajesh Dahiya, Naib Nazir as PW 5, ASI Harpal Singh as PW 6, ASI Abhey Singh as PW 7, Jagdish Chander Ahlmad as PW 8 and thereafter, the prosecution evidence was closed.

Statement of accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence was put to him. He denied all the prosecution allegations and pleaded innocent and false implication in the present case. In his defence, the accused examined Sadhu Singh as DW 1.

Learned Judicial Magistrate Ist Class, Bhiwani, 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 Additional Sessions Judge, Bhiwani, vide impugned judgment dated 09.09.2011.

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

I have gone through the judgments passed by the courts below.

From the record, I find that both the courts below have given concurrent findings on the basis of evidence and the same do not require any inference from this Court. In no way, these findings can be held as perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread by the courts

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below and which material evidence has not been considered by the courts below. Nothing has been pointed out as to what illegality has been committed by the courts below.

Perusal of the record shows that accused, who is present petitioner, was impersonating his brother-Balia, who was admittedly not present in the court. PW Prem who appeared in the Court, identified that the present petitioner is not Balia and thereafter, he was apprehended at the spot. There is nothing on record to disbelieve the statement of PW 4 Dr.V.P.Sirohi, learned Additional District & Sessions Judge, who was holding the court as CJM, Bhiwani at that time. Similarly, nothing has been pointed out in the cross-examinations of other witnesses also, which makes their statements unreliable. The witnesses are reliable and the courts below have rightly placed reliance upon their statements.

In view of the above, I find that the prosecution has duly proved its case by leading cogent and reliable evidence. Therefore, the judgment of conviction dated 01.03.2011 passed by learned Judicial Magistrate Ist Class, Bhiwani and the judgment dated 09.09.2011 passed by learned Additional Sessions Judge, Bhiwani are correct, as per law and do not require any interference from this Court.

In the alternative, learned counsel for the petitioner submitted that the petitioner has been facing the trial for the last 11 years and has suffered a lot and therefore, he prayed for reduction of the sentence imposed upon the petitioner.

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Keeping in view the facts and circumstances of the present case and in view of the facts that the petitioner has been suffering a long protracted criminal proceedings since 2006 i.e. for the last about 11 years and he is stated to be a poor person and first offender, sentence imposed upon the petitioner is reduced and he is directed to undergo simple imprisonment for a period of one year instead of one and half years under Sections 205 and 419 of IPC each. However, sentence of fine and in default thereof shall remain the same. It is clarified that both the sentences shall run concurrently.

With the aforesaid modification in the sentence, the present revision petition stands dismissed.

As petitioner-Mukesh is on bail, his bail bonds stand cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

04.10.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No