

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

**CRR-2549-2012 (O&M)
Date of decision: 01.11.2017**

Parveen and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Shiv Charan Bhola, Advocate for
Mr. Chanakya Pandit, Advocate for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is to set aside the judgment dated 15.02.2012 passed by the trial Court, convicting the petitioners under Sections 356, 379 of the Indian Penal Code, 1860 ('IPC' for short) and the order of sentence dated 16.02.2012 sentencing them to rigorous imprisonment for a period of two years and to pay a fine of Rs.900/- each, in default of payment of fine, further imprisonment for a period of 15 days as well as the judgment dated 03.08.2012 passed by the lower appellate Court dismissing the appeal filed by the petitioners.

Brief facts of the case are that on 22.01.2009, the investigating officer, while conducting investigation in some other FIR, met the complainant who made her statement that two boys riding on a motorcycle came behind and snatched Identity Card, purse, a mobile phone of Motorola make having SIM No.9466564012 and cash of Rs.1700/-. The petitioners

who were arrested in FIR No.65 dated 19.01.2009, had suffered their disclosure statements Ex.PW2/A and Ex.PW2/B regarding commission of offence in the present FIR. Thereafter, the investigation was completed and report under Section 173 Cr.P.C. was filed in the Court and charges under Sections 356 and 379 IPC were framed against the petitioners-accused on 27.04.2009.

The prosecution recorded the statements of PW1 Poonam Devi complainant who deposed on the line of the allegations made in the FIR, PW2 ASI Baljeet, PW3 SI Yogesh and PW4 ASI (Retd.) Mahender. Thereafter, in the statement recorded under Section 313 Cr.P.C., the petitioners-accused pleaded innocence and denied all the incriminating evidence against them. The trial Court vide its judgment dated 15.02.2012 convicted the petitioners under Sections 356 and 379 IPC and vide order of sentence dated 16.02.2012 sentenced them to undergo R.I. for two years. The appeal filed by the petitioners was also dismissed by the lower appellate Court vide judgment dated 03.08.2012.

It is submitted on behalf of the petitioners that there is no direct evidence against the petitioners and they have been involved in the present FIR, while they were in custody in FIR No.65 of 2009, in which they have already been acquitted by the trial Court. It is further submitted that except the present FIR, the petitioners are not involved in any other case and petitioner No.1 Parveen has already undergone 07 months and 23 days of actual sentence and petitioner No.2 Vinay @ Bobby has undergone 08 months and 05 days of actual sentence. Counsel for the petitioners has submitted that the petitioners are the only bread winner of their families and

they have faced the mental agony for the last about 08 years and they have not misused the concession of bail during the trial or during pendency of the appeal and even after their sentence was compounded by this Court.

After hearing learned counsel for the parties, I find that both the Courts below have rightly convicted the petitioners under Sections 356 and 379 IPC, as the charges against the petitioners were duly proved from the testimony of complainant PW1 Poonam Devi and the investigating officer. However, considering the fact the petitioners, who have already undergone substantive sentence of 07 months and 23 days and 08 months and 05 days, are not convicted in any other as per the custody certificate dated 18.03.2013 and also considering the fact the petitioners were on bail during the trial, during pendency of the appeal before the lower appellate Court as well as during pendency of this revision petition vide order dated 19.03.2013 and are facing the trial since 2009, the sentence awarded to the petitioners is reduced to already undergone by them.

Accordingly, this petition is partly allowed. The conviction of the petitioners is upheld and the finding recorded by the trial Court with regard to payment of fine of Rs.900/- is also upheld. However, the sentence awarded by the trial Court, as upheld by the lower appellate Court, is reduced to already undergone by them.

(ARVIND SINGH SANGWAN)
JUDGE

01.11.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No