

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

CRR No.3592 of 2016 (O&M)
Decided on:-August 24, 2017.

Nasir.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

By way of the present revision petition, the petitioner has challenged the judgment dated 02.09.2016 passed by learned Additional Sessions Judge, Mewat, vide which the appeal filed by the petitioner against the judgment of conviction dated 04.02.2016 and order on mode of disposition dated 10.03.2016 passed by learned Principal Magistrate, Juvenile Justice Board, Mewat, was dismissed.

Briefly stated, FIR No.124 dated 04.06.2014 under Sections 395 and 397 IPC was registered against the petitioner at Police Station Ferozepur Jhirka with the allegations that on 03.06.2014 at about 11.00 P.M., when complainant Rajender was going from Biwan Crusher Plant to Chhapra Crusher Plant in his car, he was intercepted by the petitioner along with three

other co-accused. The petitioner and other co-accused took the complainant hostage on gun point. They also snatched away his wallet containing Rs.700/- and ATM card. Besides this, they also snatched away two mobile phones, silver ring and absconded with the car of the complainant.

Statements of the witnesses were recorded by the police and site plan of the place of occurrence was prepared. After completion of investigation, Challan was prepared and presented before the Principal Magistrate, Juvenile Justice Board, Mewat for initiation of inquiry against the petitioner as he was juvenile in conflict with law at the time of commission of crime.

Copy of Challan was supplied to the juvenile free of costs as envisaged under Section 207 Cr.P.C. Finding a prima-facie case against the juvenile, notice of accusation for having committed offence under Sections 395 and 397 IPC was served upon him to which he did not plead guilty and claimed inquiry.

In order to prove its case, the prosecution has examined as many as 11 witnesses including complainant Rajender Kumar as PW11. Thereafter, evidence of the prosecution was closed and statement of the juvenile under Section 313 Cr.P.C. was recorded. The juvenile denied all the allegations levelled against him and pleaded his innocence as also false implication, but did not lead any evidence in his defence.

Vide judgment dated 04.02.2016, the juvenile (petitioner herein) was held guilty and convicted by learned Principal Magistrate, Juvenile Justice Board, Mewat for commission of offence under Section 392 IPC. Vide separate order dated 10.03.2016 passed by the Principal Magistrate, Juvenile

Justice Board, Mewat on mode of disposition, the petitioner was ordered to be kept in Special Home, Ambala for a period of two years for commission of offence under Section 392 IPC.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order on mode of disposition before the Court of Session. However, learned Sessions Judge, Mewat vide judgment dated 02.09.2016 dismissed his appeal.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged the impugned judgments on the point of conviction and has confined his arguments regarding the quantum of sentence. He has contended that the petitioner is a young person having no past criminal record. He is facing the criminal proceedings since the year 2014. He has been ordered to be kept in Special Home for a period of two years. As against the said period 2 years, he has already undergone 1 year and 6 months. Learned counsel for the petitioner has prayed that the punishment awarded to the petitioner may be converted into the one already undergone by him.

On the other hand, learned State counsel has vehemently opposed the prayer made on behalf of the petitioner and has submitted that the offence under Section 392 IPC is a heinous one. In case the sentence of petitioner is reduced, it will give a wrong message to the society as such like crime is an offence against the society as well. The petitioner had snatched away the wallet containing Rs.700/- and ATM card of the complainant.

I have heard learned counsel for the parties.

Learned counsel for the petitioner has not challenged conviction of the petitioner and has, rather, confined his arguments to the quantum of sentence only. Moreover, perusal of the paper book reveals that there is no illegality or perversity in the impugned judgment dated 04.02.2016 passed by learned Principal Magistrate, Juvenile Justice Board, Mewat as well as judgment dated 02.09.2016 passed by learned Sessions Judge, Mewat. The observations of learned Courts below in the impugned judgments are based upon appreciation of evidence and by assigning cogent and valid reasons. Therefore, conviction of the petitioner does not call for any interference and the same is upheld.

In order to determine the question of quantum of sentence, the Courts of law ought to weigh the degree of the culpability of the accused, its effect on others and the impact on the society. It is also of utmost importance that unnecessary leniency may not be shown while sentencing an accused as it might have a cascading effect on the society as a whole. While sentencing an accused, both sides of the fulcrum have to be maintained at straight line and a balance has to be struck between the interest of the individual and the well being of the society.

No doubt, a harsh punishment may serve as a deterrent, but at the same time, it would not benefit the convict in reforming himself, and thereby divesting the society of one of its constituents. The accused can learn more in society than in the company of criminals who are convicts.

In the case in hand, the petitioner is a young person and the custody certificate dated 03.01.2017 (Annexure R-2) received from the

Superintendent, Special Home, Sonipat reveals that he remained in custody during trial w.e.f. from 07.06.2014 to 20.11.2014. Thereafter, he is in custody since 02.09.2016 i.e. the date when his appeal was dismissed by learned appellate Court and nothing is on record to suggest that the petitioner may not improve in the event his sentence is reduced.

On the specific query put to learned State counsel, it has been pointed that the ATM card snatched from the complainant was not utilized by the petitioner. No other case has been reported against the petitioner. Considering the fact that the incident was of 03.06.2014 and the petitioner is a first time offender, this Court is inclined to modify the sentence awarded to him.

Therefore, considering the peculiar facts and circumstances of the case and reformative trend of modern penology coupled with the fact that the petitioner is a young person and is not a previous convict, this Court is of the opinion that ends of justice would be met if the sentence of the petitioner is reduced to the period already undergone by him. Reliance can be placed on ***Sunder Lal @ Balli Versus State of Haryana 2017(2) Law Herald 1128***, whereby for the same offence, the accused who was sentenced to undergo simple imprisonment for one year, this Court has reduced his sentence to a period of five months. Similarly, in ***Parminder Singh and another Versus State of Punjab 2007(3) RCR (Criminal) 585***, the sentence was reduced to the period already undergone by the accused.

Ordered accordingly.

The petitioner is ordered to be released from the Special Home,

Sonipat, if not required in any other case.

With the aforesaid modification in the impugned order on mode of disposition, the present revision petition stands dismissed.

August 24, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No