IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4561 of 2016 (O&M)
Date of Decision: May 03, 2017

Satwant Singh Mehta

...Petitioner

VERSUS

Income Tax Officer, Faridkot

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vivek Goel, Advocate
for the petitioner.

Mr.Denesh Goyal, Advocate
for the respondent.

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<u>INDERJIT SINGH, J.</u>

The present revision has been filed by the petitioner Satwant Singh Mehta against respondent Income Tax Officer, Faridkot, challenging the impugned judgment of conviction and order of sentence dated 06.02.2014 passed by learned Chief Judicial Magistrate, Faridkot, vide which the petitioner was convicted under Sections 276-C and 277 of the Income Tax Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1500/- and in default of payment of fine, to further undergo simple imprisonment for a period of two months under each Section and also challenging the judgment dated 29.11.2016 passed by learned Addl. Sessions Judge, Faridkot, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

From the record, I find that a complaint was filed against accused-petitioner under Sections 276-C and 277 of the Income Tax Act. The brief averments of the complaint as noted down in the judgment passed by learned CJM, Faridkot, are as under:-

> *"2. Brief allegations as contained in the complaint are that complainant is an Income Tax Officer, Ward-III (4), Faridkot and is a public servant. He has been authorized to file this complaint vide order/sanction of Commissioner of Income Tax, Bathinda at his instance. Accused Satwant Singh Mehta has been doing the money lending business and deriving money on account of on interest as was confirmed by him in his statement recorded on 26.03.2004. The then Income Tax Officer after recording satisfaction, issued notice under Section 148 of the Income Tax which was duly served upon the accused on 29.03.2004. In response to that notice, return was filed by the accused showing an income of Rs.44,000/- on 05.05.2004. Verification portion of the return and annexures were signed by the accused. Same were processed on 26.08.2004 under Section 143 (1) of the Act. Thereafter, case of the accused was selected for scrutiny as per the instructions of the Board. Vide order dated 21.03.2005, the assessment was completed under Section 143 (3) of the Act at an income of Rs.2,24,000/- as against returned income of Rs.44,000/-. During the course of assessment proceedings, it was noticed that accused had given loans to various persons including to one Manjit Kaur on 02.01.1998 of Rs.1,80,000/-. But the said amount was not reflected in the Income Tax return submitted by the accused. The then A.O. asked the accused to explain source of above said loan advanced to above said person. Accused replied thereto on different dates. In pursuance of assessment order dated 21.03.2005, vide which assessment was made at the income of Rs.2,24,000/-, penalty proceedings under Section 271 (1) (C) of the Act was initiated against the accused. Accused filed an appeal before the Commissioner of Income Tax, Bathinda, who vide order dated 04.08.2005 has upheld the additions of Rs.1,25,000/-. Thereafter, accused filed further appeal before the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar against the order of Commissioner of Income Tax, Bathinda where also the order of Commissioner of Income Tax, Bathinda, was upheld by the Bench.*
>
> *3. After granting opportunities to the accused, the complainant/assessing officer came to the conclusion that the*

> *accused has deliberately concealed the particulars of his income and thus imposed a penalty of Rs.24,700/- vide order dated 27.04.2006. The appeal of the accused against the imposition of penalty under Section 271(1) (C) of the Act was dismissed by the Commissioner of Income Tax, Bathinda vide its order dated 11.10.2006.*
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> *4. The accused willfully attempted to evade tax/penalty/interest imposable/chargeable under the Act and furnished inaccurate particulars of his income and thus committed offence punishable under Section 276-C of the Act. Further, the verification of the return filed by the accused delivered statements of accounts were false which the accused knew and believed to be false and thus committed offence punishable under Section 277 of the Act. Hence, this complaint."*

Learned CJM, Faridkot, 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, Faridkot, vide judgment dated 29.11.2016.

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

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings given by learned Courts below, regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is first offender, only bread earner of the family and suffering from the criminal proceedings since 2008 and is undergoing sentence since 29.11.2016.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 06.02.2014 passed by learned

CJM, Faridkot, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is stated to be first offender, only bread earner of the family and is facing long protracted criminal proceedings since 2008 i.e. for the last about 9 years and also in view of the fact that petitioner is undergoing sentence since 29.11.2016, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner Satwant Singh Mehta 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.

May 03, 2017 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**