

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

**CRR No.1003 of 2017 (O&M)
Date of Decision: April 05, 2017**

Jaswinder Kaur

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pritam Singh Dhanoa, Advocate
for the petitioner.

Mr.J.S.Bhullar, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jaswinder Kaur against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 24.09.2015 passed by learned Chief Judicial Magistrate, SAS Nagar, Mohali vide which the petitioner was convicted under Sections 181 ad 200 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹1000/- and in default of payment of fine, to undergo imprisonment for a period of one month under each Section and also challenging the judgment dated 08.12.2016 passed by learned Addl. Sessions Judge, SAS Nagar, Mohali, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that a compliant was filed against the petitioner under Sections 181 and 200 IPC. The brief averments of the complaint as noted down in the judgment passed by learned CJM, SAS Nagar, Mohali are as under:-

“2. The brief facts of the present complaint are that in case titled as State versus Dalip Singh, bearing FIR No. 38 dated 15.04.2013, under Section 21 of NDPS Act, Police Station Balongi, the accused Dalip Singh filed an application for grant of bail under Section 439 of the Code of Criminal Procedure titled as State versus Dalip Singh, bearing B.A. No. 529 dated 12.11.2013 stating that it is first bail application filed by him before Court and no such or similar bail application is pending or decided by any Competent Court of Law. In support of said bail application, duly sworn affidavit dated 12.11.2013 of Jaswinder Kaur wife of Dalip Singh, resident of village Alampur Vaka Gali No.2, Police Station Kartarpur, District Jalandhar, now resident of Street no.2, Kanchan Feed, Samrala Road, Khanna was also filed deposing that it is first bail application filed by the bail applicant before the Court and no other such or similar bail application is pending or decided by any Competent Court of Law. The said affidavit dated 12.11.2013 of Jaswinder Kaur has been attested by Mrs. Rajni Thakur, Oath Commissioner, Mohali, on identification of Sh. Avinash Sharma, Advocate. Perusal of record revealed that earlier also bail applicant/accused Dalip Singh filed similar application for grant of regular bail on 01.06.2013 through his counsel Sh. Sandeep Kumar, Advocate, titled as State of Punjab versus Dalip Singh, bearing no. B.A. No. 238 dated 01.06.2013, which was dismissed by the Court on 07.06.2013. The said earlier bail application was also supported by duly sworn affidavit of Jaswinder Kaur wife of Dalip Singh, attested by Mrs. Jyoti Bala, Notary Public, Mohali. However, the bail applicant had not disclosed the said fact of dismissal of his earlier bail application, rather, it was stated in the bail

application that no such or similar bail application is pending or decided by any Competent Court of Law. In support of the bail application Jaswinder Kaur wife of bail application filed an affidavit to the effect that it is the first bail application under Section 439 of the Code of Criminal Procedure showing that the bail applicant concealed this fact from the Court and filed application on false grounds for his regular bail and false affidavit has been filed by Jaswinder Kaur which has been got attested by her from Mrs. Rajni Thakur, Oath Commissioner, Mohali. She has used the said false affidavit as genuine while knowing the same to be false. Therefore the accused has committed the offences under Sections 181, 200 IPC and hence she be summoned and punished as per law. The present complaint has been filed by Sh. D.S.Johal, learned Additional Sessions Judge, Mohali, being Public Servant in official capacity and hence, his personal appearance be exempted and further Sh. Rajiv Verma, Ahlmad of the Court of learned Additional Sessions Judge, Mohali, has been authorized to institute the complaint and to appear as witness on behalf of the learned Additional Sessions Judge, Mohali. Hence this complaint has been filed by the complainant against the accused.”

Learned CJM, SAS Nagar, Mohali 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 Addl. Sessions Judge, SAS Nagar, Mohali, vide judgment dated 08.12.2016.

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

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is a lady and first offender. Learned counsel for the petitioner further contended that the petitioner is suffering from the criminal proceedings since 2013 and she has already undergone actual sentence of 4 months and 9 days.

I have heard learned counsel for the petitioner as well as

learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is a lady, stated to be first offender, and is facing long protracted criminal proceedings since 2013 i.e. for the last about 4 years and also in view of the fact that petitioner has already undergone actual sentence of 4 months and 9 days including remission of 12 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by her. However, the sentence of fine and in default thereof, shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner, Jaswinder Kaur, who is in custody, be set at liberty forthwith, if her custody is not required in connection with any other case, subject to payment of fine, if already not paid.

April 05, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No