

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

Criminal Revision No.1134 of 2017(O&M)
Decided on:-July 19, 2017.

Parminder Singh @ Kala.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. K.B.S. Mann, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against judgment dated 16.12.2016 passed by learned Additional Sessions Judge, Bathinda whereby his appeal against judgment of conviction and order of sentence dated 26.02.2016 passed by learned Sub-Divisional Judicial Magistrate, Talwandi Sabo was dismissed.

Briefly stated, case of the prosecution is that a secret information was received by the investigating officer Jaswinder Singh to the effect that the petitioner-accused is involved in theft of cars and he used to sell those cars by changing their registration numbers and by forging their registration copies. As such, FIR No.80 dated 23.06.2010 under Sections 379, 411, 420, 467, 468 and 471 read with Section 34 IPC was registered

against the petitioner-accused at Police Station Talwandi Sabo. He was apprehended by the police on 23.06.2010 along with a Bolero car bearing registration No.PB-15D-3240 regarding which he could not produce any document of ownership.

After completion of investigation, Challan was submitted in the Court. The copies of Challan were supplied to the accused free of cost as envisaged under Section 207 Cr.PC. On the basis of documents placed on record, a prima-facie case under Sections 379, 411, 420, 467, 468 and 471 IPC was made out against the accused and accordingly, charge was framed against him under those offences to which he pleaded not guilty and claimed trial.

After recording the evidence and hearing the parties, the trial Court vide its judgment dated 26.02.2016 had convicted the petitioner-accused under Section 471 IPC and acquitted him of the charge under Sections 379, 411, 420, 467 and 468 IPC. Vide separate order dated 26.02.2016, the petitioner was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.3,000/- for commission of offence under Section 471 IPC. In default of payment of fine, further sentence of simple imprisonment of ten days was ordered by the trial Court.

Aggrieved against the said judgment and order, the petitioner-accused filed an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Bathinda vide judgment dated 16.12.2016.

It is in these circumstances, the petitioner has preferred the present revision petition before this Court.

At the outset, learned counsel for the petitioner has not challenged the conviction of petitioner and confined his arguments qua the quantum of sentence only.

Learned counsel for the petitioner has further submitted that as against the awarded sentence of one year, the petitioner has already undergone actual sentence of 10 months and 22 days. He has further submitted that the petitioner is a first time offender and is only bread earner of his family. He has, thus, prayed that the sentence awarded to the petitioner be reduced to the period already undergone by him.

Learned State counsel, on the other hand, has filed the custody certificate, which has been taken on record. As per said certificate, the petitioner has undergone actual sentence for a period of 10 months and 22 days and there is no other case pending against him. The custody certificate further reveals that the fine has been paid by the petitioner.

I have heard learned counsel for the parties.

This Court has scrutinized the impugned judgments passed by the Courts below as well as other relevant documents and evidence and finds that there is no scope of interference with the impugned judgments passed by the Courts below. Moreover, learned counsel for the petitioner has also not challenged conviction of the petitioner and confined his prayer to the extent of quantum of sentence only.

However, as regards pleas of the petitioner that he is facing criminal proceedings since the year 2010, a first time offender; only bread earner of his family; and as against the awarded sentence of one year, he has already undergone actual custody of 10 months and 22 days, this Court finds that the prayer made by learned counsel for the petitioner carries weight.

In the case of ***Yadwinder Singh Versus State of Punjab 2009(3) RCR (Criminal) 245***, this Court, taking into consideration that the petitioner was facing criminal proceedings for the last 10 years; was not a previous convict; fine was paid by him and had already undergone sentence of more than three months out of total sentence of one year, had reduced the sentence of petitioner to the period already undergone by him.

Hon'ble Delhi High Court in the case of ***Joginder Lal Versus State 1998(3) RCR (Criminal) 192***, wherein the accused was convicted under Sections 420, 467, 468 and 471 IPC, reduced his sentence to the period already undergone by holding that the accused had already undergone substantial period of sentence and it would be quite harsh to direct him to undergo the remaining sentence after 30 years of the incident. Similar view has also been adopted by this Court in ***Criminal Revision No.1707 of 2005*** titled as ***Baldev Ram Versus State of Punjab*** decided on 30.9.2015.

Accordingly, taking into consideration the pleas of petitioner and also the judgments referred hereinabove, though conviction of the petitioner is upheld, but the sentence imposed upon him under Section 471 IPC is reduced to the period already undergone by him, however, with no

change in the fine clause.

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

July 19, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No