

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

CRR-1407-2017 (O&M)

Date of Decision: 09.11.2017

HARJINDER SINGH

...Petitioner

VS.

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. A.S. Siviya, Advocate,
 for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

KULDIP SINGH, J. (ORAL)

Learned counsel for the petitioner restricts his prayer only on the point of quantum of sentence.

As per the allegations leveled against the petitioner, one stolen mobile phone was recovered from his possession. Consequently, vide judgment of conviction and order of sentence dated 05.10.2016 passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib has convicted and sentenced the accused-petitioner as under: -

Under Section 457 IPC: To undergo rigorous imprisonment for three months and to pay fine of ₹ 1,500/ and in default of payment of fine to further undergo rigorous imprisonment for one months.

Under Section 380 IPC: To undergo rigorous imprisonment for two years and to pay fine of ₹1,000/ and in default

of payment of fine to further undergo rigorous imprisonment for 15 days.

However, both the sentences were directed to run concurrently.

In appeal, the learned Additional Sessions Judge, Sri Muktsar Sahib vide judgement dated 09.03.2017 has modified the judgement of the trial Court and instead of convicting the petitioner under Sections 457 and 382 of the Indian Penal Code, convicted the petitioner under Section 411 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for six months and to pay fine of ₹1,000/- and in default thereof to further undergo rigorous imprisonment for 15 days

Custody Certificate dated 09.11.2017 has been filed in the Court today and the same is taken on record. After perusing the custody Certificate, it comes out that accused-petitioner has undergone the total sentence of 3 months and 9 months including remissions of 8 days. It further comes out that the petitioner is first offender as no case is pending or decided against him.

Keeping in view the fact that accused-petitioner is the first offender, I am of the view that present case is a proper case where the interest of justice should not be tampered with the beneficial provisions of the Probation of Offenders Act, 1958. As such, while maintaining the conviction under Section 411 of the Indian Penal Code, the judgements of the both the Courts below are hereby set aside. Petitioner is ordered to be released on probation on his furnishing personal bonds in the sum of ₹25,000/- for a period of one year with one surety of the like amount to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Sri Muktsar Sahib. The probation bonds be furnished before learned Chief Judicial Magistrate, Kurukshetra within two

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weeks from the date of receipt of certificate copy of this order with the undertaking to maintain peace and be of good behavior.

The conviction will not be treated as a disqualification attached to conviction as per Section 12 of the Probation of Offenders Act, 1958.

In view of the above, present revision is allowed.

November 9, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No
<i>Whether Reportable</i>	:	Yes	/	✓ No