

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revn. No.313 of 2017 (O&M)

Date of Decision: April 18, 2017

Sher Singh son of Shri Ram DassPetitioner

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Ravi Malik, Advocate for the petitioner.

Mr.CS Bakshi, Additional Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

Vide judgment of conviction and order of sentence dated 12.9.2016, the trial Court held the petitioner guilty for the commission of offence punishable under Section 174-A of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for a period of one year along with fine of ₹2,000/-. In default of payment of fine, petitioner was directed to undergo simple imprisonment for a period of two months. Appeal preferred by the petitioner has been dismissed by the learned Sessions Judge, Palwal vide order dated 16.12.2016.

2. The instant revision is directed against the concurrent conviction of the petitioner under Section 174-A of the Indian Penal Code.

3. Learned counsel, at the very outset, makes a statement that he would not be assailing the conviction of the

petitioner on merits, but would confine the scope of the instant revision only with regard to quantum of sentence.

4. In the light of such submission made by the learned counsel, there would be no requirement for this Court to dilate into the minute details of the case. Suffice it to notice that the prosecution case, as per final report under Section 173 of the Code of Criminal Procedure, was that on 10.3.2015 Head Constable Rajesh Kumar along with Constable Hari Chand was present at village Bamnikhera for routine crime and patrolling duty. They received secret information that accused Sher Singh/present petitioner, who had been declared a Proclaimed Offender in case FIR No.368 of 2012 under Section 174-A of the Indian Penal Code, is standing near the school of the village and waiting for a vehicle. The police party having proceeded at the spot apprehended the petitioner who identified himself as Sher Singh son of Ram Dass. Accused made a statement that he had evaded his arrest in FIR No.368 of 2012, under Section 174-A of the Indian Penal Code, Police Station Sadar Palwal and consequently, vide order dated 4.9.2014 had been declared a Proclaimed Offender from the Court of the learned Judicial Magistrate Ist Class, Palwal. The trial has culminated in the conviction of the petitioner as also order of sentence as noticed hereinabove.

5. This Court has perused the judgment passed by the trial Court and duly affirmed by the Appellate Court and finds that the conviction of the petitioner for commission of offence punishable under Section 174-A of the Indian Penal Code has

been recorded upon due appreciation of evidence and by adopting cogent and valid reasons. There would be no scope for interference in exercise of the revisional jurisdiction of this Court insofar as conviction of the petitioner is concerned.

6. Learned counsel appearing for the petitioner has prayed for a lenient view to be taken as regards quantum of sentence and submits that the sentence be reduced to the period already undergone.

7. As per custody certificate furnished by the learned State counsel, the petitioner has undergone an actual custody period of 4 months and 17 days as on 18.4.2017 including period spent in custody as undertrial.

8. Petitioner is stated to be illiterate. Submission has been raised by the learned counsel that on account of illiteracy the petitioner was not aware of the consequences that would flow on account of non-appearance before the trial Court. It is also the submission that no summons or notice had been served in accordance with law prior to declaring the petitioner as Proclaimed Offender on 4.9.2014.

9. Petitioner is stated to be a poor person and the only bread earner to support his family.

10. In the considered view of this Court, ends of justice would be met if the substantive sentence awarded to the petitioner of one year rigorous imprisonment is reduced to six months. Court has been apprised that the fine of ₹2,000/- already stands paid by the petitioner before the trial Court.

11. For the reasons recorded above, the instant revision is

disposed of in terms of upholding the conviction of the petitioner but reducing the sentence to a period of six months rigorous imprisonment.

12. The petitioner shall be released on completion of such reduced sentence period.

13. Revision is disposed of in the aforesaid terms.

April 18, 2017
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* *Yes/No*
 Whether Reportable? *Yes/No*