

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

**CRM-M-1207-2017(O&M)
Date of decision:-8.1.2018**

Raj Pal @ Rinku

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Anshul Mangla, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Raj Pal @ Rinku along with his co-accused Joginder, Mange Ram and Pardeep were tried for commission of offences under Sections 120-B and 392 IPC. During the course of trial, the three co-accused of the petitioner/accused - Raj Pal @ Rinku had confessed their guilt and were convicted vide judgment dated 7.6.2007. The trial against petitioner/accused Raj Pal @ Rinku culminated and vide judgment dated 9/10.1.2012, Judicial Magistrate Ist Class, Kurukshetra convicted him for the offence under Section 392 IPC sentencing him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of three months. The petitioner/accused had deposited the amount of fine.

Feeling aggrieved by judgment of conviction and sentence passed by the trial Court, the petitioner had preferred an appeal to the

Court of Sessions, however, learned Additional Sessions Judge, Kurukshetra had dismissed the said appeal vide judgment dated 12.9.2013, therefore, he preferred a revision petition before this Court, which was disposed of vide order dated 20.5.2016, vide which substantive sentence of imprisonment was reduced to the one already undergone by the petitioner/accused, whereas fine of Rs.1,000/- was enhanced to Rs.5,000/- directing that enhanced amount of fine be deposited by him with the trial Court within three months from the date of order, failing which, he would undergo simple imprisonment for six months, in that way, the quantum of sentence of imprisonment and fine was modified. The revision petition was however dismissed.

The amount of fine so enhanced was not deposited by the petitioner within time stipulated. He has moved the instant petition for grant of an opportunity to comply with the order dated 20.5.2016 passed by this Court contending that the petitioner is engaged as driver-cum-cleaner on a truck and was not able to get in touch with his counsel, therefore, non-compliance of the order was not intentional but due to the aforesaid reason; that he came to know about the order passed by this Court only recently when he received notice from the Courts at Kurukshetra; that the petitioner expressed his apprehension of being behind bars for non-compliance of the orders passed by this Court; that he is ready and willing to deposit the amount of fine so enhanced and therefore the time given for its deposit be extended.

The request is being opposed by the State counsel vehemently.

I have heard learned counsel for the parties besides going

through the records and I find that no ground is made out to accept the petition.

The petitioner was ordered to deposit amount of enhanced fine within three months from the date of passing of order by this Court i.e. on 20.5.2016. Admittedly, it was not so done. The reason given that the petitioner is engaged as driver-cum-cleaner on a truck and was not able to get in touch with his counsel does not seem to be convincing. The order had been passed in presence of counsel for the petitioner, who could very easily report the petitioner regarding deposit of the enhanced amount of fine. Nevertheless there could certainly be not a bar to deposit of fine at a later stage. The Court concerned is required to recover the fine and if the petitioner is ready to pay the same, the Court may allow him to deposit the same. Needless to say that there would not be any occasion to make the petitioner undergo imprisonment in default of payment of fine.

The petition being misconceived is dismissed accordingly.

(H.S.MADAAN)
JUDGE

8.1.2018

Brij

Whether reasoned/speaking: Yes/No

Whether reportable : Yes/No