

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRR No. 1452 of 2015
Date of Decision: 14.09.2018

MOHINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL.

Present:- Mr. J.S. Bedi, Senior Advocate with
Mr. Sonpreet S. Brar, Advocate,
for the petitioner.

Mr. K.S. Sidhu, DAG, Punjab.

Mr. J.S. Mundi, Advocate,
for respondent No.2.

Mr. Ajay Pal Singh, Advocate
for complainant-Surjit Singh.

SUDHIR MITTAL, J. (Oral)

Petitioner-Mohinder Singh was prosecuted on the complaint of PUNSUP. The allegation against the petitioner is that he missappropriated paddy entrusted to him for milling. Vide judgment dated 04.01.2013, the petitioner was convicted under Section 406 IPC and sentenced to rigorous imprisonment for three years and payment of fine of Rs. 5,000/- in default of payment of fine to further undergo rigorous imprisonment for two months. The said judgment of conviction and order of sentence was challenged before the Additional Sessions Judge, Sri Muktsar Sahib. Vide judgment dated 18.03.2015, the appeal was dismissed and judgment of conviction and order of sentence maintained. Thus, the present revision petition has been filed.

2 Learned State counsel has placed on record custody certificate dated 14.09.2018 prepared by Shivraj Singh Nandgarh, Superintendent District Jail, Sri Muktsar Sahib and the same is taken on record. A copy thereof has been supplied to learned counsel for the petitioner. According to this certificate, the petitioner has undergone custody of two years, six months and one day inclusive of remission. There is no other criminal case pending/decided against him.

3 Learned Senior counsel for the petitioner vehemently argues that the conviction is contrary to law and evidence on record. He submits that respondent No.2 had preferred a suit for recovery against the petitioner but the said suit was dismissed vide judgment dated 07.11.2015, however, appeal against the said judgment and decree is pending before the learned Additional District Judge, Sri Muktsar Sahib. He also submits that the petitioner is the first offender as is evident from the custody certificate. He was taken into custody on 18.03.2015 and as on date, he has undergone sentence of two years, six months and one day. Thus, in the alternative, it is prayed that the sentence be reduced to the period already undergone.

4 It is settled law that in exercise of revisional jurisdiction, the High Court will not go into reappreciation of evidence. The record does not indicate that the findings of the Courts below are perverse and therefore, I cannot accept the submissions made by the learned Senior counsel on merits of the case. Admittedly, an appeal is pending against the judgment and decree of the trial Court and therefore, no benefit can be drawn therefrom by the petitioner.

5 A perusal of the record further reveals that the FIR in this case was registered in the year 2003. Thus, apart from the actual sentence of two

years, six months and one day undergone by the petitioner, he has also undergone the travails of a lengthy prosecution. In similar circumstances, Hon'ble the Supreme Court of India in case titled as 'Natvarlal Nathalal Patel Vs. State of Gujarat, 1993 (1) GujLH 516' has reduced the sentence of the convict to the period actually undergone by him. Thus, considering the fact that the petitioner has already undergone two and a half years of his sentence and has also undergone lengthy prosecution extending to over fifteen years, I deem it appropriate to take lenient view against him. Thus, the impugned judgment of conviction is upheld but sentence of the petitioner is reduced to the period already undergone by him.

6. At this stage, Mr. Ajay Pal Singh, Advocate has sought to intervene in the case on behalf of one Surjit Singh. Said Surjit Singh is not a party in this case and is admittedly a third person. On enquiry, learned counsel submits that Surjit Singh is the father of the son-in-law of the petitioner, who was allegedly murdered. Keeping in view the fact that said Surjit Singh has no locus to intervene in the present case, I refuse to permit learned counsel to make any submissions.

7. With the above modification in the sentence part, the instant revision petition stands dismissed.

8. Copy of this judgment be sent to the Chief Judicial Magistrate/Convicting Magistrate, for compliance.

(SUDHIR MITTAL)
JUDGE

September 14, 2018
jyoti3

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No