

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

255

CRR-3487-2016 (O&M)

DATE OF DECISION :- January 30, 2018

Balwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Karamjit Singh Chahal, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

Balwinder Singh an accused in FIR No. 216 dated 29.12.2014 for the offences under Sections 407, 379, 411 IPC, Police Station Ferozepur was tried by learned Judicial Magistrate First Class, Zira vide judgment dated 12.04.2016. He was convicted for offence under Section 407 IPC and sentenced to undergo rigorous imprisonment for 3 years and pay fine of Rs. 5,000/- and in default of payment of fine, to further undergo imprisonment for 3 months.

Briefly stated the facts of the case as per prosecution story are on 11.11.2014, complainant, Chandan Ahuja had hired a truck/trawler bearing registration No. HR-46B-0025 from Truck Union for transporting 737 bags containing Basmati rice to M/s Amrisar Riceland at Village Sensara, Tehsil Ajnala, District Amritsar. Accused-Balwinder Singh was driver of that vehicle. However, the consignment did not reach its

destination. The complainant had informed the Police in that regard on the basis of which a formal FIR was registered. During the course of the investigation, accused was arrested in this case alongwith 215 Basmati rice bags. After completion of investigation he was challaned. On presentation of challan, charge for formal offences under Sections 407, 379, 411 of IPC was framed against him, to which he pleaded not guilty. Statement of accused was recorded under Section 313 Cr.P.C in which he pleaded innocence. During his defence evidence he examined DW1 AC Satwinder Singh. After hearing arguments the trial Court convicted and sentenced the accused as mentioned above.

Feeling aggrieved, he preferred an appeal to Court of Sessions, which was however, dismissed by Additional Sessions Judge, Ferozepur vide order dated 09.08.2016. Accused was taken into custody and presently he is behind the bar. He has filed a revision petition before this Court, notice of which was given to the State.

Learned counsel appearing for the revision petitioner states that he does not challenge the judgment passed by Courts below on the point of conviction but wants to make submissions as regards the sentence part. In terms of the custody certificate produced by the State counsel, the petitioner has undergone total sentence of 1 year, 10 months and 9 days. He is not shown to be involved in any other case.

Learned counsel for the revision petitioner submits that petitioner is aged about 44 years and married having three children. He further states that the petitioner is a first offender, therefore, a lenient view in the matter be taken.

Under these circumstances, while maintaining the conviction of the revision petitioner, it is found proper and appropriate that sentence of imprisonment imposed upon him is modified and he is sentenced to imprisonment already undergone by him. The part of sentence regarding the payment of fine is kept as intact. With such modification, the revision petition stands disposed of .

(H.S. MADAAN)
JUDGE

30.01.2018
neeraj

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No