

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

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CRR-3948-2017 (O&M)
Date of Decision:- 07.08.2018

Om Parkash

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. J.S.Thakur, Advocate for the petitioner.

Mr. Nikhil K.Chopra, Addl. A.G. Punjab.

P.B. BAJANTHRI, J.(ORAL)

CRM-14967-2018

Learned counsel for the petitioner submitted that he does not want to press the appeal on merit and prayed for hearing on the quantum of sentence. Learned State counsel has not filed reply to codonation of delay. Heard. In view of the reasons stated in CRM delay of 915 days is condoned and CRM stands allowed.

Main case

In the instant petition, petitioner was challenged in FIR No. 174 dated 11.11.2006, under Sections 325/323/148/149 IPC, Police Station Division No.1, Jalandhar. Trial court convicted the petitioner-Om Parkash and ordered sentenced to undergo imprisonment for a period of one year and

to pay fine of Rs.1000/- in default thereof to undergo imprisonment for one month under Section 325 IPC and imprisonment for 3 months and to pay fine of Rs.500/- under 323 IPC read with Section 34 IPC in default thereof to further undergo imprisonment of 15 days vide judgment dated 22.11.2012 passed by Judicial Magistrate, Jalandhar. Insofar as accused Sarwan Singh is concerned, he sentenced to undergo imprisonment of three months and pay fine of Rs.500/- in default of payment of fine to further undergo imprisonment of 15 days under Section 323 read with 34 IPC.

2. Both the petitioner and Sarwan Singh preferred appeal before the appellate court against judgment/order dated 22.11.2012. Due to non-appearance of the petitioner-Om Parkash or his counsel, appellate court proceeded to confirm the conviction order. Insofar as as Sarwan Singh is concerned, he has been ordered to be released on probation.

3. Learned counsel for the petitioner submitted that he do not want to press the appeal on merit and prayed for release of petitioner on probation as he is facing the agony of trial since 2012. Now he is in custody since 07.05.2018 and his co-accused has already been released on probation.

4. State counsel has not disputed the above factual aspects.

5. Heard the learned counsel for the parties.

6. Since the accused is facing the agony of trial since 2012 and now he had already spent 3 months in custody out of total sentence of one year and he was remain unheard before the appellate court, in that case he also required some leniency. Case of the petitioner is not equal to one Sarwan Singh as he was sentenced under Section 323/34 IPC only. Petitioner's sentence could be modified.

7. In view of these facts and circumstances, appeal stands

dismissed and sentence of petitioner is modified. Petitioner-Om Parkash is ordered to be released on probation subject to furnishing of probation bonds for a sum of Rs.1 Lac with one surety in the like amount to the entire satisfaction of the Trial court with an undertaking to be of good behaviour for a period of one year from the date of furnishing probation bond and to come and receive sentence if so called upon the court to do so by the court during the said period of one year.

(P.B.BAJANTHRI)

07.08.2018
pooja saini

JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No