

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

CRR No.1050 of 2018 (O&M).

Decided on:-July 03, 2018.

Gajender Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. S.K. Chauhan, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana
for the respondent-State.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 30.01.2018 passed by learned Sessions Judge, Rewari whereby his appeal against the judgment of conviction dated 26.07.2017 and order of sentence dated 29.07.2017 passed by learned Chief Judicial Magistrate, Rewari, was partly allowed.

Briefly stated, FIR No.231 dated 03.07.2013 under Section 451 IPC and Section 25 of the Arms Act, 1959 was registered against the petitioner along with other co-accused, namely, Aarif at Police Station City Rewari on the allegations that on 03.07.2013 at about 09.00 P.M., complainant Raj Singh was sleeping along with his family members after taking their meal. In the meantime, he heard something and saw that two young boys were there in the courtyard of his house, and had been talking

with each other in a slow voice. On seeing them, the complainant called his son Jogender and raised an alarm 'thief-thief'. On this, the two young boys ran away towards village side, but the complainant and his son chased them and apprehended them with the help of some villagers. On inquiry, they disclosed their names as Aarif son of Doobal, resident of Uttar Pradesh and Gajender son of Gordhan Rajpur, resident of village Lakhan Majra, District Rohtak. On their personal search, two live cartridges were found from the pocket of accused Aarif, whereas one country-made pistol was found in the pocket of accused Gajender. The police was informed and both the accused along with live cartridges and pistol were handed over to the police party headed by ASI Gurdayal Singh.

On the basis of statement of the complainant, the petitioner as well as other co-accused was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, Challan against the petitioner and co-accused Aarif was filed in the Court.

The copies of Challan, as envisaged under Section 207 Cr.PC, were supplied to the accused. Finding a prima facie case against the petitioner and co-accused Aarif, they were charge-sheeted under Section 451 IPC and Section 25 of the Arms Act, 1959, to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 26.07.2017 had convicted the petitioner and co-accused Aarif for the commission of offence punishable under Section 451 IPC and Section 25 of the Arms Act, 1959. Vide separate order dated

29.07.2017, learned trial Court sentenced the petitioner and the co-accused as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 451 IPC	Rigorous imprisonment for two years and fine of Rs.1,000/- each and in default thereof, to further undergo RI for 10 days.
Under Section 25 of the Arms Act, 1959.	Rigorous imprisonment for one year and fine of Rs.5,00/- each and in default thereof, to further undergo RI for 7 days.

It was, however, ordered that both the substantive sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner and the co-accused preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 30.01.2018 passed by learned Sessions Judge, Rewari, appeal of the petitioner and co-accused was partly allowed and while affirming the judgment of conviction, the order of sentence was partly modified to the extent that the petitioner and co-accused shall undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each for commission of offence punishable under Section 451 IPC and they will also undergo rigorous imprisonment under Section 25 of the Arms Act, 1959 as ordered by the trial Court. However, both the substantive sentences were ordered to run concurrently.

Still aggrieved, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged the impugned judgments of conviction and restricted his arguments qua the quantum of sentence only. He has contended that as

against the awarded sentence of imprisonment for one year imposed by learned appellate Court, the petitioner is in custody since 30.01.2018 i.e. the date when his appeal was dismissed by learned Sessions Judge, Rewari.

He has further contended that the petitioner is a first time offender and there is no other criminal case pending against him. He is a poor person and is the sole bread earner for his family. He has been suffering the agony of criminal proceedings since 03.07.2013 i.e. the date when the FIR in question was registered against him. Thus, he has prayed for reduction of sentence of the petitioner.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Section 451 IPC and Section 25 of the Arms Act, 1959. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

However, while taking into account the protracted trial, antecedents of the petitioner coupled with the fact that the petitioner is not found involved in any other case and there is a scope for his reformation, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period of seven months subject to payment of fine of Rs.15,000/- instead of fine of Rs.1,500/-, as imposed by learned trial Court and affirmed by learned appellate Court.

Accordingly, the sentence of petitioner Gajender Singh is reduced to the period of seven months subject to payment of fine of Rs.15,000/-. However, the petitioner shall submit an undertaking before the Court of Chief Judicial Magistrate, Rewari that he shall not commit such offence in future.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

July 03, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No