

CRR-1933-2018

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-1933-2018

Decided on:-November 27th , 2018.

KAMLESH KUMAR

.....Petitioner.

Versus

STATE OF UT CHANDIGARH

.....Respondent.

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

Present:- Mr. Shrikant Rattan, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. P.P., U.T., Chandigarh.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition against the judgment dated 14.03.2018 passed by learned Additional Sessions Judge, Chandigarh vide which the conviction orders dated 30.01.2016 as recorded by learned Judicial Magistrate Ist Class Chandigarh was upheld.

Briefly stated, an FIR No.262 dated 24.06.2009 under Section 417 IPC, Section 15 of Indian Medical Council Act, 1956, Section 17 of Indian Medicine Central Council Act, 1970 and under Section 15 of Homeopathy Central Council Act, 1973 was registered against the petitioner at Police Station 39, Chandigarh.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 30.01.2016 convicted the petitioner and sentenced him as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 15 of Indian Medical Council Act, 1956	Rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- and in default of payment of fine he shall further undergo rigorous imprisonment for 15 days.
Under Section 17 of Indian Medicine Central Council Act, 1970.	Rigorous imprisonment for a period of one years alongwith payment of fine of Rs.1500. In default of payment of fine, to further undergo rigorous imprisonment of 15 days.

It was further ordered that both the substantive sentences shall run concurrently.

Aggrieved from the aforesaid judgment of conviction and order of sentence dated 30.01.2016, the petitioner preferred an appeal before the Additional Sessions Judge, Chandigarh, but the same was dismissed vide orders dated 14.03.2018.

It is in these circumstances, the petitioner has filed the present revision.

Ld. Counsel for the petitioner has not challenged the revision on merits, however, prayed that a lenient view may be taken qua the quantum of sentence only. He has argued that the petitioner is a first time offender. Even though the petitioner was not indulged in any such practice as alleged, he was awarded a sentence of one year. He has contended that as against the awarded

sentence of one year, the petitioner has already undergone imprisonment for a period of 07 months and 8 days including remission.

The factual submissions made by counsel for the petitioner have not been controverted by learned State counsel. He states that there is no other case pending against him.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Section 15 of Indian Medical Council Act, 1956, under Section 17 of Indian Medicine Central Council Act, 1970. The appellate Court has also 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 its 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.

So far as the issue of quantum of sentence is concerned, as against the awarded sentence of 01 year, the petitioner has already undergone imprisonment for a period of 07 months and 8 days days including remission and no other case is pending against him. He has been facing the agony of criminal proceedings since 24.06.2009 i.e. the date when the FIR in question was registered against him.

Considering the fact that the petitioner has been sentenced for a period of 01 year and as he has already gone imprisonment for a period of 07 months and 8 days including remission, there is no other case pending against him as well as the undertaking given by the counsel for the petitioner that as long as he does not acquire a valid degree he shall not practice as a doctor without complying with the provisions of the Indian Medicine Central Council Act, 1970, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

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

November 27, 2018

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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No