

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

106

**CRIMINAL REVISION NO.219 OF 2018
DATE OF DECISION: MARCH 06, 2018**

Ram Singh

.....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Preetwinder Singh Dhaliwal, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This revision petition has been preferred, challenging the order dated 17.10.2017 passed by learned Additional Sessions Judge, Barnala, vide which an appeal preferred by the petitioner as well as the State of Punjab against the judgement dated 14.03.2017 passed by the Chief Judicial Magistrate, Barnala, whereby the petitioner stood convicted under Section 406 IPC and sentenced for the period, for which he has already undergone, stand allowed and the case was remanded for fresh trial.

It is the contention of learned counsel for the petitioner that the learned trial Court, when no evidence was coming on behalf of the prosecution despite various dates having been granted, proceeded to get signatures of the petitioner on the blank papers and thereafter recorded the confessional statement of the petitioner, consequently passing the impugned order dated 14.03.2017, holding the petitioner guilty of offence under

Section 406 IPC and sentencing him for the period already undergone without the consent of the petitioner and in fact it is because of the said reason that the learned Additional Sessions Judge, Barnala, vide order dated 17.10.2017 had set-aside the said order. He contends that although the State of Punjab had also preferred an appeal but the same should not have been accepted for the simple reason that the challenge in the appeal was that the period of sentence after conviction was meagre whereas the petitioner deserved the higher sentence. The said appeal has also been accepted, which should not have been in the light of the fact that the prosecution has failed to produce any evidence on record, which would substantiate the allegation against the petitioner, for which he has been charged sheeted and had been facing trial for long. He, however, has categorically and very fairly admitted that there is no order passed by the trial Court, closing the prosecution evidence.

Keeping in view the facts and circumstances of the present case and on going through the order dated 17.10.2017, this Court does not find any illegality in the same as the Court has proceeded to balance the equity between the parties and has further proceeded to pass an order keeping in view the position as it was expected of the trial Court to proceed and decide the case on merits in the light of the fact that prosecution evidence was in progress when the alleged confessional statement was given by the petitioner, which has not been accepted by the appellate Court. The appellate Court has rightly remanded the case back after setting-aside the judgement dated 14.03.2017 passed by the trial Court and directing it to commence the trial from the stage when the impugned order was passed i.e. for examining the prosecution witnesses. It would be open to the petitioner

to take all pleas before the trial Court in case he feels that ample opportunities have been given to the prosecution to lead the evidence which they had failed to avail.

Finding no merit in the revision petition, the same stands dismissed.

March 06, 2018
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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