

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

**Criminal Revision No.994 of 2018 (O&M)
Date of Decision: September 27, 2018**

Mukesh Kumar

.....PETITIONER(s).

VERSUS

State of Haryana and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Manoj Kaushik, Advocate
for the petitioner (s).

Mr. Amrik Narwal, D.A.G., Haryana.

Mr. D.S. Matya, Advocate
for respondent No.2.

SURINDER GUPTA, J.

The present revision petition has been filed against the judgment dated 09.02.2018 passed by learned Additional Sessions Judge, Gurugram, whereby the appeal filed by the present petitioner-convict against the judgment of conviction dated 01.03.2016, passed by learned Judicial Magistrate Ist Class, Gurgaon for the offence punishable under Section 193 Indian Penal Code (for short-IPC) was dismissed, however, sentence of simple imprisonment for three years awarded by the trial Court was reduced to simple imprisonment for one year.

On the complaint of the petitioner FIR No. 60 dated 28.11.2007 for offence punishable under Sections 7 and 13 (1)(d) of

Bureau, Gurugram against Sonu Kumar employee of HUDA. Statement of petitioner was also recorded before Judicial Magistrate 1st Class, Gurgaon under Section 164 Cr.P.C. but while appearing as witness in the Court, he resiled from his statement and learned Special Judge while disposing of the trial, ordered his prosecution under Section 193 IPC. On complaint filed against him by the Court under Section 193 IPC, he was convicted and sentenced to undergo simple imprisonment for three years and to pay a fine of ₹1000/-. Petitioner filed appeal in which his conviction was maintained but learned Appellate Court reduced the sentence from simple imprisonment for three years to simple imprisonment for one year.

Learned counsel for the petitioner has not challenged the conviction of the petitioner but has confined his submission for taking lenient view regarding quantum of sentence. He submits that petitioner is a handicapped person and as per the certificate issued by the medical board, he is having 80% permanent physical impairment in relation to his B/C lower limb. He has two sons, one daughter, wife and mother to look after. He was running a small tea-stall on *Rehri* (cart) and is not a previous convict.

Custody certificate of the petitioner shows that he has already undergone sentence of imprisonment of 7 months 18 days after his conviction. Disability certificate produced on file shows that he is having permanent physical disability of 80% in relation to his B/C lower limb.

Keeping in view the above facts and that he is not a previous convict, I am of the opinion that awarding of sentence of simple imprisonment for 9 months to the petitioner will serve the ends of justice.

Consequently, this revision is partly accepted. The conviction of the petitioner recorded by the trial Court and affirmed by the Appellate Court is upheld. However, the substantive sentence awarded to the petitioner is reduced from simple imprisonment for one year to simple imprisonment for 9 months. Sentence of fine awarded to him by the court below, is, however, maintained.

Intimation in this regard be sent to Superintendent, District Prison, Gurgaon (Haryana).

September 27, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***