

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.811 of 2019

DATE OF DECISION: SEPTEMBER 4, 2019

SANJAY KUMAR

...PETITIONER

VERSUS

U.T., CHANDIGARH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. GAURAV GUPTA, ADVOCATE
FOR THE PETITIONER.

MR. ANIL KUMAR LAMDHARIA, ADDL.P.P.
FOR U.T. CHANDIGARH.

MANOJ BAJAJ, J.(ORAL)

The petitioner has preferred the revision petition challenging the Appellate Court judgment dated 24.1.2019 passed by the learned Addl. Sessions Judge, Chandigarh, whereby the judgment of conviction and order of sentence dated 3.11.2017, passed by the trial Court against the petitioner was upheld.

The prosecution arises from case FIR No.192 dated 14.11.2015 under Sections 379, 411 and 473 IPC registered at Police Station Sector 19, Chandigarh. The petitioner was awarded R.I. of 1 year under Section 411 IPC and R.I. for 1 year alongwith fine of ₹500/- for the offence punishable under Section 473 IPC and in default of payment of fine, to undergo further S.I. for 1 month. Both the sentences were ordered to run concurrently.

The facts leading to the revision petition are noticed below.

Upon a complaint dated 15.11.2015 moved by M.K.Choudhary,

resident of Sector 47, Chandigarh that on 6.11.2015, he had parked his motorcycle bearing Registration No.RJ-19-14-M-9388 in the market of Sector19, Chandigarh and the same has been stolen by someone, the present FIR was registered. During investigation in the said FIR, the police alongwith the complainant reached Scrap Market, Sector 45, Chandigarh, where the complainant found his motorcycle. Accused Sanjay Kumar was arrested in the said recovery. He failed to produce any document or title in favour of the recovered vehicle. The number plate of the said motorcycle was found having a different Registration No.PB-11-2647, however, the engine number and chassis number matched with that of complainant's motorcycle.

After completion of necessary formalities, final report (challan) under Section 173 Cr.P.C. was submitted before the Court and the learned trial Court proceeded to frame the charges against the accused under Sections 411 and 473 IPC. The accused pleaded not guilty and claimed trial.

To bring home the guilt of the accused, the prosecution in all examined 9 witnesses and also adduced documentary evidence. Thereafter the statements of accused was recorded under Section 313 Cr.P.C., wherein he stated that he was innocent and had falsely been implicated in the present case.

The trial Court after examining the material on record proceeded to hold accused guilty of the offence under Sections 411 and 473 IPC and imposed the sentence as notice above.

Dissatisfied with the judgment of conviction and order of sentence dated 3.11.2017 passed by Judicial Magistrate Ist Class,

Chandigarh, an appeal was carried by the convict bearing Appeal No.745 of 1.12.2017 which was dismissed by the Addl. Sessions Judge, Chandigarh vide judgment dated 24.1.2019.

Learned counsel for the petitioner submits that he does not press challenge to the conviction part in the impugned judgment and confines his prayer only for reduction of sentence awarded to the petitioner.

Learned counsel for the petitioner(s) contends that the petitioner is a first offender and neither there is any case pending against him, nor he was previously convicted in any other criminal case. He further contends that the petitioner is a young man and has undergone 8 months and 16 days out of a total sentence of 1 year R.I and therefore, a lenient view may be taken against the petitioner and he be sentenced to the period already undergone by him.

Learned counsel for U.T., Chandigarh has, however, opposed the prayer made by learned counsel for the petitioner and submits that the petitioner has been rightly convicted and sentenced for the offence committed by him.

After hearing learned counsel for the parties, this Court finds that the petitioner is a young man and prior to this occurrence, he was never involved in any other case nor any case of such nature is pending against him. Therefore, the ends of justice would be met in case the sentence imposed upon the convict is reduced to the period already undergone by him and he be given a chance to improve himself.

In view of the above, the conviction recorded by the learned trial Court and upheld by the Appellate Court is maintained. However, the

order of sentence awarded by the trial Court is modified and reduced to the period already undergone by the petitioner.

The petitioner is in custody. He be released forthwith, if his custody is not required in any other case.

Revision petition is disposed off.

September 4, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No