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

CRR No.2042 of 2008.

Date of Decision: **May 02, 2019.**

Gurmeet Singh Petitioner.

Versus

State of Punjab Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by: Mr. Divyadeep Walia, Advocate, for
Mr. A.K. Walia, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
for respondent-State .

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment dated 20.09.2018, whereby learned Sessions Judge, Bathinda, affirmed the judgment of conviction and order of sentence dated 04.08.2007 passed by learned Judicial Magistrate Ist Class, Phul, vide which the petitioner was convicted under Section 61 (1)(C) of the Punjab Excise Act and was sentenced to undergo rigorous imprisonment for a period of one year with fine of Rs.5,000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.

2. Facts relevant for the purpose of decision of the present case; that on 31.07.2001 when ASI Jugraj Singh alongwith other police officials was present at Bus Stand of village Khokhar, he received a secret information that accused Gurmeet Singh was distilling illicit liquor by means

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of working still near the passage of village Khokhar to Sood Chhiri near a place Sidh Chhiri Baba Kalu Nath under the herd of trees. After joining Nihal Singh son of Kehar Singh as an independent witness, the police party raided at the said place and found the accused distilling illicit liquor by means of working still. The still was cooled down and dismantled and components of the still alongwith three quarter bottles of distilled illicit liquor, one plastic Can containing three bottles of distilled illicit liquor and a drum containing 20 kg partial *lahan* were recovered, which were taken into police possession vide recovery memo Ex. P3. Accused was arrested and site plan Ex. P4 of place of recovery was prepared. After completion of investigation, challan was presented in the Court.

3. During investigation, learned trial Magistrate completed various proceedings of the trial including framing of charge against the petitioner-accused, recording statements of prosecution witnesses, examination of accused under Section 313 Cr.P.C. and after considering the prosecution evidence and defence version, learned trial Court held the petitioner guilty and convicted and sentenced him as narrated in para No.1 above.

4. Being aggrieved of the passing of judgment of conviction and order of sentence dated 04.08.2007, the petitioner preferred appeal before the Court of Sessions, but the same was dismissed by learned Additional Sessions Judge, Bathinda, vide judgment dated 20.09.2008 and the same are now under challenge before this Court.

5. At the very outset, learned counsel representing the petitioner mainly contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken as the petitioner has

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already suffered much agony of law by facing protracted litigation for more than 19 years and as per the custody certificate dated 29.04.2019, the petitioner has already undergone total sentence of 02 months and 02 days against the awarded sentence of One year. .

6. Learned State counsel opposed this contention on the ground that the petitioner was found to be in possession of working still and the minimum sentence provided under Section 61 of the Act is Rigorous Imprisonment for a period of one year and learned trial Judge has already awarded the minimum sentence as provided under the Statute and there are no grounds for interference on the point of sentence.

7. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the prosecution case is based on the statements of PW-3 ASI Jagraj Singh and PW-4 HC Joginder Pal, before whom the working still, 20 Kgs. Lahan and 3, 1/4 bottles of illicit liquor and articles of working still were recovered. The Investigating Officer of the case has also deposed the same fact and both of them well stood by the test of cross-examination. The other documentary evidence including Chemical report (Ex.P6), recovery memo (Ex. P3) and Site plan (Ex. P4) are available on the file. In his defence, the accused had examined four witnesses. The defence plea is plea of denial as put forward in the statement of the accused. Learned trial Court has rightly believed the prosecution evidence and discarded the defence evidence. The same has been affirmed by learned first Appellate Court and there are no grounds to set-aside the judgment of conviction.

8. As regards to the quantum of sentence, this case is regarding

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recovery of working still for distillation of illicit liquor and the sentence provided under Section 61 of the Act at the relevant time, i.e., date of occurrence of the offence was imprisonment for a period of not less than one year and fine of Rs.5,000/- and in default of payment of fine, one month RI. As the learned trial Judge has already awarded the minimum sentence provided under the Statute, no ground for interference is made out.

9. Resultantly, the present revision petition is without any merit and the same stands dismissed *in toto*.

(SHEKHER DHAWAN)
JUDGE

May 02, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes