

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

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**CRR-888-2008
DATE OF DECISION: 16.07.2019**

HARMESH KUMAR @ MESHA AND ANR. ... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Ashok Giri, Advocate
for the petitioner(s).

Mr. Dhruv Dayal, Senior DAG, Punjab.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have challenged the judgments of the Courts below, whereby they have been convicted under Section 61 (1)(a) of the Excise Act (hereinafter referred to as 'the Act') and sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.1500/- each and in default thereof, to further undergo simple imprisonment for a period of 1 month.

Learned counsel for the petitioners contends that he is not challenging the conviction and would confine his prayer in this petition to the sentence which may be reduced to the period already undergone by the petitioners. Learned counsel for the petitioners further contends that the petitioners have undergone about 8 months and 14 days out of the total sentence of 1 year. He also contends that the petitioners are not involved in any other case and the appellate Court had granted the benefit of probation to the petitioners but on account of their inability to furnish probation bonds,

they were sentenced to undergo rigorous imprisonment for 1 year. There is no independent witness to the recovery.

Heard.

The allegations against the petitioners are that 60 bottles of Commodo XXX Rum, which were meant for sale in Chandigarh, were recovered from them and they could not produce any licence or permit for possessing the same. The recovery was effected from a Tata Sumo car but there is no independent witness to the alleged recovery. The incident had taken place on 12.07.2004 and, therefore, the petitioners are facing criminal proceedings for over 15 years. There is nothing to suggest that the petitioners were involved in any other case. They were in their twenties at the time of the occurrence. They have undergone sentence of 8 months and 14 days out of the total sentence of 1 year.

It would, therefore, be in the interest of justice, if the sentence of the petitioners is reduced to the period already undergone by him.

Consequently, while maintaining the conviction, the sentence of the petitioners is reduced to the period already undergone by them.

With this modification, the petition stands disposed of.

16.07.2019

SwarnjitS

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No