

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1903-2009
Date of Decision: 30.8.2019

Sukhdev Singh @ Sukha

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Tarundeep Singh, Advocate, for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offence under Section 379/411 IPC. Vide judgment and order dated 8.4.2009, learned Judicial Magistrate, Ist Class, Malerkotla, held the petitioner guilty under Section 379 IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/- and, in default of payment of the fine, to further undergo rigorous imprisonment for one month.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Sangrur. Vide judgment dated 18.07.2009, the learned Additional Sessions Judge, Sangrur, while upholding the finding of guilt, partly allowed the appeal qua sentence and reduced the same from two years to that of one year.

The criminal prosecution against the petitioner was launched on the basis of the FIR recorded on the statement made by complainant Devinder Kumar son of Sohan Lal, to the effect that he had been running a petrol pump in the name of style of Sohan Lal and Brothers at village Chaunda; that his uncle Satish Kumar was having one Maruti Car bearing Registration No. PB-48/0152 Model 1995; that a day before 10.11.2002, he had parked the said Maruti Car on the said petrol pump and had gone to his house on his motorcycle; that on that day, at about 10.30 a.m., on reaching his petrol pump, he found that the said Maruti Car had been stolen by some unknown person on the intervening night of 9.11.2002 and 10.11.2002 and that he searched for the car, but no clue thereof was found.

After the registration of the FIR, during investigation, the Investigating Officer visited the place of occurrence; prepared the rough site plan; recorded the statements of the witnesses under Section 161 Cr.P.C. and recovered the car from the possession of the petitioner.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charge was framed against the accused-petitioner under Sections 379/411 IPC. The accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 7 witnesses.

In the statement recorded under Section 313 Cr.P.C, the accused denied the charges and pleaded false implication.

The learned trial Court, as noticed above, found the petitioner guilty for the offence under Section 379 IPC and sentenced him accordingly. The appeal filed by the petitioner was partly allowed by the Appellate Court reducing the sentence from two years RI to one year RI.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that the FIR in this case was registered 10.11.2002; that the petitioner has been facing the agony of trial for the last 17 years and that by now, the petitioner has already undergone a substantial period out of the total sentence of one year. It is, thus, submitted that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that both the Courts below have, on the basis of the cogent and convincing evidence, found the petitioner guilty under Section 379 IPC and sentenced him accordingly. It is further submitted that the learned Appellate Court has, while showing leniency, already reduced the sentence imposed upon the petitioner, when the

same was reduced from two years RI to one year RI. It is, thus, prayed that the revision filed by the petitioner may be dismissed.

I have heard learned counsel for the parties and with their able assistance, have gone through the records of the case.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offence under Section 379 IPC, more so when the prosecution had duly established on record that the car had been recovered from the possession of the petitioner. Hence, the conviction of the petitioner under Section 379 IPC is upheld.

While coming to the sentence part, by now, the petitioner has already undergone substantial period of sentence out of his total sentence of one year. Taking into consideration that the FIR in this case was registered on 10.11.2002 and the fact that the petitioner has been facing the agony of trial for more than 16 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again, to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him, but subject to payment of Rs.25,000/- as fine.

In view of the above, while upholding the conviction of the petitioner under Section 379 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. The fine imposed upon the petitioner

is enhanced to Rs.25,000/-. The said amount shall be deposited by the petitioner before the Chief Judicial Magistrate concerned within a period of two months, failing which the revision petition shall stand automatically dismissed without any reference to the Bench.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

30.8.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No