

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.210

CRR No.2256 of 2009

DECIDED ON: November 25, 2019

SONU SHARMA

..PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Jarnail Singh Saneta, Advocate, for the petitioner.
Mr. Tanuj Sharma, AAG, Haryana.

SUDHIR MITTAL, J. (ORAL)

The petitioner has been convicted under Section 420 IPC and has been sentenced to undergo RI for a period of two and a half years and to pay a fine of Rs. 2000/-, in default of payment of which, to further undergo simple imprisonment for a period of 06 months. His appeal has also been dismissed.

Learned counsel for the petitioner submits that co-accused Jagtar Singh has been acquitted and thus the conviction of the petitioner is illegal. He also submits that the petitioner has undergone actual custody of 10 months and 06 days and keeping in view the facts and circumstances of this case, the sentence may be reduced to the period already undergone. Reliance in this regard is placed upon ***Balkar Singh vs. State of Haryana, 2016(2) Law Herald 1328.***

Custody certificate dated 22.11.2019 prepared by Sh. Resham Singh, DSM, Deputy Superintendent, District Prison, Kurukshetra has been filed in Court by learned State Counsel. The same is taken on record. According to this certificate, the petitioner has undergone custody of 10 months and 06 days as on 22.11.2019. He has also been convicted in two

CRR No.2256 of 2009

other criminal cases under Section 356 IPC wherein he was sentenced to the period already undergone.

Learned State counsel opposes the prayer and submits that the revision petition deserves to be dismissed.

Learned counsel for the petitioner has taken me through the judgment of the trial Court wherein co-accused Jagtar Singh has been acquitted after examining the evidence on record and returning a finding that the prosecution evidence does not support the allegations made against said Jagtar Singh as there is nothing to indicate that he had entered into a conspiracy with the petitioner or that he had induced the complainant to part with money. He has, however, failed to show that the appreciation of evidence so far as the petitioner is concerned was erroneous or that any procedural error was committed by the Courts below.

Regarding the submission that the sentence be reduced to the period already undergone, discretion can be exercised in favour of an accused if he has no criminal antecedents and is otherwise of good character. The facts of this case however, do not support the submissions of learned counsel for the petitioner as the petitioner has already been convicted twice for offence under Section 356 IPC. The judgment in ***Balkar Singh's case (supra)*** is not attracted as in the said case, the petitioner was a first offender.

For the aforementioned reasons, the present petition is dismissed.

November 25, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No