

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

225

CRR-1125-2017 (O & M)
Date of Decision:11.02.2019

Shambhu @ Rajesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Bijender Dhankhar, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this petition to challenge the judgment dated 13.02.2017 passed by the learned Appellate Court in Criminal Appeal No.1 of 2017 whereby the conviction and sentence as recorded by the learned trial Court vide its decision dated 28.11.2016 arising from case FIR No.519 dated 18.09.2015 under Section 174-A of Indian Penal Code ('IPC' – for short), registered at Police Station Hodal was upheld.

The learned trial Court had imposed a sentence of two years of simple imprisonment along with fine of ₹3,000/- for commission of offence under Section 174-A IPC. In case of non-deposit of fine, it was further ordered that the convict shall further undergo simple imprisonment for a

period of three months. When the conviction recorded by the learned trial Court was maintained, it was ordered that the benefit of probation be extended as he was the first offender.

Learned counsel for the petitioner and the State have been heard and with their able assistance, I have gone through the case file.

Learned counsel for the petitioner has submitted that the challenge of the conviction in the petition is not pressed and he confines his prayers only to the extent of reduction of sentence as imposed by the Courts below.

The said prayer has been considered, which is opposed by the learned State counsel.

Learned State counsel has placed on record custody certificate, which indicates the involvement of the convict in other cases i.e. (1) FIR No.484 dated 28.07.2017 under Sections 302, 304-B, 498-A, 406, 323, 328 and 34 IPC registered at Police Station Hodal, District Palwal in which he is on bail; (2) FIR No.177 dated 22.05.2012 under Sections 147, 148, 149, 323, 324, 307 and 302 IPC and Section 25/54/59 of the Arms Act registered at Police Station Hodal, District Palwal in which he is confined in jail as an undertrial prisoner.

Besides, it is specifically noticed by the learned trial Court while awarding the sentence that the convict is habitual offender and several cases are pending against him and, therefore, no leniency can be shown to him. Not only this even before the learned Appellate Court an attempt was made to seek the concession of probation on the ground that he is the first offender as he was acquitted in the previous case registered against

him. The learned Appellate Court refused to extend the concession on the ground that nothing has been placed on record to show that the convict had been acquitted in the previous case.

It is evident that an attempt was made by the convict to mislead the Court by projecting that he stands acquitted in other case whereas custody certificate clearly reveals that he is facing two trials and is involved in heinous crime for the offences punishable under Sections 302, 304-B and 307 IPC.

In view of the above, this Court is of the considered opinion that no ground is made out for reduction of sentence.

Dismissed.

11.02.2019

sheetal

(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No