

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

CRR-3085-2018 (O&M)
Date of decision : 07.12.2019

Hamidulla

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Anmol Malik, AAG, Haryana
alongwith ASI Satwinder.

ANIL KSHETARPAL, J. (ORAL)

Petitioner-convict is in the revision petition against the judgment of conviction passed by the Judicial Magistrate, Ist Class, Panipat, under Sections 420, 407, 411 of IPC while sentencing the petitioner to undergo rigorous imprisonment for a period of 3 years under Sections 420, 407 IPC and for a period of 2 years under Section 411 IPC, apart from the fine.

In appeal, judgment of conviction and sentence, has been upheld. The facts of the case as noticed by the learned Judicial Magistrate are extracted as under:-

“2. Briefly stated, the case of the prosecution is that, on 31.05.2007, ASI Tejbir, CISF, complainant, moved a complaint before ASI/IO, Vazir Singh, alleging therein that,

on 30.05.2007, at about 2.30 PM, a Tanker bearing No.HR-38M-8118 and its driver had been apprehended by ASI, Tejbir Singh, complainant, Ct. Subhash Chand and Ct. B.P. Singh, CISF, on the basis of secret information, at weight bridge Panipat Refinery. The Tanker brought Acetic Acid in the Refinery. Tanker was belonging to Bhatia Logistic Company. Hamidulla s/o Mushkil Khan was working as driver on the above said Tanker. It has been further alleged that Hamidulla, driver had filled water in one part of Tanker after selling Acetic Acid from it. He was apprehended by the above said officials of CISF. Lab test of Acetic Acid, contained in the Tanker, was also got conducted. Water was found mixed in all four part of tanker and it was total water in one part of tanker. Hamidulla, accused/driver has caused wrongful loss to the tune of Rs.1,76,595.50/- to Refinery by selling Acetic Acid from the tanker. Thereafter, accused alongwith case property, Tanker and other documents was handed over to local police. It was requested that necessary action be taken against the accused.

3. On the basis of above said complaint, the present case was registered against the accused. Investigation was carried out. It was found that Acetic Acid had been sold to co-accused Ajay @ Kaka by the accused Hamidulla. Rough site plan of place of occurrence and recovery were prepared. Accused were arrested. They suffered disclosure statements. Case property was taken into police possession. Statements of the witnesses were recorded. After completion of the investigation, the report under Section 173 Cr.P.C. was prepared and presented in the Court for putting the accused on trial.”

Learned counsel for the petitioner, after arguing for sometime

and realizing the difficulty in persuading the Court on merits, has come up with an alternative prayer. He prays that sentence awarded be reduced to the period already undergone i.e. 1 year 10 months. He submits that the petitioner is first time offender, having large family to support, who are dependent upon him, being sole bread earner. He further submits that the petitioner was employed as a driver of commercial vehicle (Tanker).

Learned counsel for the State has opposed the prayer made.

Keeping in view the facts and circumstances of the present case while upholding the judgment of conviction, it is considered appropriate to release the petitioner on 2 years probation on good conduct. He be released on entering into a bond of ₹20,000/-, with surety to appear and receive sentence when called upon during the aforesaid period. He, in the meantime, be directed to keep the peace and be of good behaviour.

In view of the above, the present petition is disposed of.

07.12.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No