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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3907-2018 (O&M)
Date of Decision : May 21, 2019

Sanjay Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. J.P.Jangu, Advocate
for the petitioner.

Mr. Neeraj Paswal, AAG, Haryana,
for the respondent-State.

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment of conviction and order of sentence dated 20.1.2018 passed by learned Additional Chief Judicial Magistrate, Rewari vide which the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 356 IPC	to undergo Rigorous Imprisonment for a period of 6 months and to pay a fine of Rs. 3000/-.	To undergo further Simple Imprisonment for a period of 2 months.
U/s 379 IPC	to undergo Rigorous Imprisonment for a period of 1 year and to pay a fine of Rs. 5,000/-.	To undergo further Simple Imprisonment for a period of 3 months.

Both the sentences were ordered to run concurrently.

2. The appeal preferred by the present petitioner against the said

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judgment of conviction and order of sentence was dismissed by learned Sessions Judge, Rewari vide judgment dated 22.10.2018.

3. Facts relevant for the purpose of decision of the present case; that in her complaint dated 25.11.2011 (Ex. PW-1/A), complainant - Dhanpati Devi wife of Phool Singh stated that on 25.11.2011 at about 6:20 PM, while going to market of Sector-3, when she alongwith her brother-in-law, namely, Bhoop Singh and her daughter, namely Shubhangi, [aged about 9 years] reached in front of the house of Bhagwant Sharma, two boys came on a motorcycle and after slowing down their motorcycle near her, snatched away one golden locket alongwith golden chain from her neck. She chased the motorcycle and found the number of motorcycle as HR-36N-7986. On the basis of the said complaint, the present case bearing F.I.R. No.436 dated 25.11.2011, under Section 356/379 IPC was registered at Police Station Model Town, Rewari. During investigation, the accused were arrested and recovery of stolen chain was effected. After completion of investigation, challan was presented in the Court.

4. During investigation, learned trial Magistrate completed various proceedings of the trial including framing of charge against the petitioner-accused, recording statements of prosecution witnesses, examination of accused under Section 313 Cr.P.C. and after considering the prosecution evidence and defence version held the petitioner guilty and convicted and sentenced him as narrated above in para No.1.

5. Being aggrieved of the passing of judgment of conviction and order of sentence dated 20.01.2018, the petitioner preferred appeal before the Court of Sessions, but the same was dismissed by learned Sessions

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Judge, Rewari, vide judgment dated 22.10.2018 and the same are now under challenge before this Court.

6. At the very outset, learned counsel for the petitioner contended that the petitioner has, by now, undergone actual sentence of more than 8 months against the awarded sentence of 1 year *inter alia* under Section 379 IPC. He further contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken.

7. Learned State counsel contended that the petitioner does not deserve any concession and the present revision petition be dismissed. He has produced custody certificate dated 20.05.2019 of the petitioner showing that the petitioner has already undergone total sentence of 8 months and 27 days as on 20.5.2019.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that both the Courts below have already appreciated the evidence in its perspective manner. PW-1, Dhanpati Devi, who is the complainant in this case, had specifically deposed that both the accused persons, present in the Court, had snatched her gold chain and fled away on motorcycle bearing registration No. HR-36N-7986 and she had given complaint, Ex. PW-1/A in this behalf to the police. PW-2, Bhup Singh, brother-in-law (*dever*) of the complainant, an eye-witness to the occurrence, had also supported the prosecution case and both these witnesses have well-stood the test of cross-examination. Apart from that, the other prosecution witnesses, namely, PW-3, Inspector (Retd.) Ami Lal, PW-4, SI Babu Ram, PW-5, Constable Sunil Kumar, PW-6 HC Raj Singh, PW-7 HC Ajeet Singh,

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PW-8 ASI Shri Bhagwan, PW-9 Constable Joginder, PW-10 Sajjan Kumar, and PW-11 Shri Bhagan ASI (Retd.) have also supported the prosecution case, whereas the defence version is plea of denial only and on that basis, learned trial Judge has rightly held the accused guilty and convicted and sentenced them vide judgment and the appeal was rightly dismissed by learned Sessions Judge, Rewari. As such, the present revision petition, qua judgment of conviction passed by the Courts below, stands dismissed.

9. As regard to quantum of sentence, this Court is certainly inclined to take a lenient view in this case. The petitioner has already undergone total sentence of 8 months and 27 days as on 20.5.2019 as per custody certificate dated 20.05.2019, taking a lenient view on the point of sentence, the order of sentence is modified to the extent that the sentence of petitioner - Sanjay in this case shall be reduced to the period he has already spent while remaining in custody during the period of trial and appeal proceedings. The petitioner be released from custody in this case, if not required in any other case.

10. Resultantly, the present revision petition stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

May 21, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes