

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

**Criminal Revision No.2226 of 2019 (O&M)
Date of Decision: November 25, 2019**

Manish Kumar

.....PETITIONER(s).

VERSUS

State of Haryana

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Divjyot S. Sandhu, Advocate
for the petitioner (s).

Ms. Dimple Jain, A.A.G. Haryana.

SURINDER GUPTA, J.

This is revision against the judgment of conviction dated 07.05.2018 and order of sentence dated 09.05.2018 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhari, convicting the petitioner for the offence punishable under Section 411 of Indian Penal Code (for short-IPC) and sentenced to undergo simple imprisonment for two years. Against that judgment/order, appeal filed by the petitioner was dismissed by learned Sessions Judge, Yamuna Nagar.

Brief facts:-

As per case of prosecution, complainant, on 09.08.2014 had parked his motorcycle bearing registration No.HR-02W-4586 in front of his house, while going inside for taking food. On coming out, he found the

09.08.2014 under Section 379 IPC at Police Station Farakpur, District Yamuna Nagar. During investigation, petitioner was arrested along with stolen motorcycle on 21.10.2014 at Kamani Chowk, Yamuna Nagar.

Learned counsel for the petitioner has not challenged his conviction on merits but has requested for a lenient view on the ground that petitioner was a young boy of less than 25 years of age at the time of his conviction. He is not a previous convict and has old parents to look after. He submits that learned Courts below have not looked into the antecedents of the petitioner while awarding him the sentence of imprisonment for two years. It is a case where the petitioner being young man and first offender, should have been allowed an opportunity to reform himself by releasing him on probation of good conduct.

Learned State counsel has not disputed that the petitioner is not a previous convict. He has argued that the offence of stealing motorcycle of complainant is serious offence and the Courts below have rightly declined to grant him the benefit of probation.

Perusal of the file shows that the petitioner was around 25 years of age at the time of his conviction. Custody certificate produced on file shows that he has undergone 03 months and 05 days of imprisonment and is not a previous convict. I am of the opinion that keeping in view the age and antecedents of the petitioner, trial Court has committed error while not considering his release on probation. The sentencing of petitioner will rather have an adverse effect on him as he may come in contact of hardened criminals in jail, which will not be in his interest or in the interest of society.

This will also frustrate the scope of taking a chance to give opportunity to

petitioner to reform himself and become a useful citizen and shun his criminal activities.

Keeping in view the above facts, I am of the considered opinion that the petitioner must be given an opportunity to reform himself by extending him the benefit of probation. Consequently, this appeal is partly accepted. Conviction of the petitioner for the offence punishable under Section 411 IPC is upheld. Keeping order of sentence of petitioner in abeyance, he is, ordered to be released on probation for a period of one year on his undertaking to keep peace and be of good behaviour during this period and on furnishing probation bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

Petitioner will also pay ₹5,000/- as costs of litigation. On furnishing of costs of litigation and required probation/surety bonds, he be released from custody, if not required in any other case.

November 25, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***