

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

**CRR No.1643 of 2019 (O&M)  
Decided on: 22.07.2020**

Govind Kumar

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN**

**Present :** Mr. Siddharth, Advocate  
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

**ARVIND SINGH SANGWAN, J.**

Prayer in this revision petition is for setting-aside the judgment of conviction dated 10.07.2018 as well as the order of sentence dated 12.07.2018, vide which the petitioner was convicted for an offence punishable under Section 411 of the Indian Penal Code, 1860 (in short 'IPC') and he was sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.1,000/- and for setting-aside the judgment dated 01.06.2019 passed by the Sessions Judge, Yamuna Nagar at Jagadhri, vide which the appeal preferred by the petitioner was dismissed.

Brief facts of the case are that on 23.04.2015, the complainant Amit Kumar son of Mangu Singh resident of Village Kaluwala, Paharipur, District Saharanpur had come to Dua Nursing Home, Jagadhri on his motorcycle bearing registration No.UP-11AN-9348 make Splendor. At about 07:00 PM when he came out of the Nursing Home, he found his motorcycle was missing as some unknown

person had stolen it. He made search of his motorcycle at his own level but did not find any clue. Thereafter, he moved complaint to the police on the basis of which a formal FIR was registered under Section 379 IPC. During the investigation, on the basis of secret information, the accused Govind Kumar was apprehended along with the stolen motorcycle. Thereafter, the motorcycle was taken into possession and the accused Govind Kumar was arrested. On interrogation, he suffered a disclosure statement revealing therein the manner in which he along with co-accused Gautam Kumar committed the offence. Thereafter, on completion of the investigation, the challan under Section 173 of the Code of Criminal Procedure (in short 'Cr.P.C.') was prepared and presented before the trial Court.

On presentation of the challan, charge under Section 411 IPC was framed against the accused, to which he did not plead guilty and claimed trial.

The prosecution examined the complainant Amit Kumar as PW1, ASI Parveen Kumar as PW2, EASI Anil Kumar as PW3, ASI Sukhwinder Singh as PW4 and HC Rajbir Singh as PW5 and thereafter, closed the evidence.

After the conclusion of the evidence of prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him but he denied the allegation of the prosecution and pleaded that he has been falsely implicated in the case. However, no defence evidence was led by the accused.

The trial Court, after hearing learned counsel for the parties

and after appreciating the evidence on record, convicted and sentenced the petitioner/accused under Section 411 IPC.

Feeling dissatisfied with the judgment of conviction dated 10.07.2018 as well as the order of sentence dated 12.07.2018, the accused/petitioner has preferred an appeal before the Lower Appellate Court, which was also dismissed vide order dated 01.06.2019 and thereafter, the accused/petitioner has filed the present revision petition before this Court.

Counsel for the petitioner, at the very outset, has submitted that he do not intend to press the judgment of conviction dated 10.07.2018, at this stage. It is further argued that the petitioner has undergone 01 year, 08 months and 18 days of actual sentence out of 02 years rigorous imprisonment awarded by the trial Court as per the Custody Certificate dated 21.07.2020. It is also submitted that the petitioner is a poor person and has his own family to support and the petitioner has faced the agony of protracted trial for a period of about 05 years, therefore, by taking a lenient view, the sentence awarded to the petitioner may be reduced to the period already undergone by him. It is also submitted that the petitioner is not involved in any other case of similar nature and in one another FIR No.656 of 2014, he is on bail.

Counsel for the petitioner has further relied upon the judgment ***“Mukesh Kumar vs State of M.P. (Now Chhatisgarh)”***, **2015(1) RCR (Criminal) 251**, wherein the Hon'ble Supreme Court in case of a conviction of 06 months rigorous imprisonment had reduced the sentence of the petitioner to the period already undergone by him.

Counsel for the State has not disputed the fact that the

petitioner has undergone 01 year, 08 months and 18 days of total sentence out of 02 years rigorous imprisonment awarded by the trial Court.

After hearing the counsel for the parties, I uphold the judgment of conviction passed by the trial Court, however, considering the fact that the petitioner has faced the agony of protracted trial for a period of about 05 years; the petitioner has undergone 01 year, 08 months and 18 days of total sentence out of 02 years RI and also in view of the fact that he is a poor person and has his own family to support, the present revision petition is *partly allowed*. The judgment of conviction and order of sentence passed by the trial Court as well as the judgment passed by the Lower Appellate Court are upheld and the sentence awarded to the petitioner is reduced to the period already undergone by him i.e. 01 year, 08 months and 18 days.

Disposed of accordingly.

The petitioner be released forthwith, if not required in any other case.

(ARVIND SINGH SANGWAN)  
JUDGE

22.07.2020  
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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable:       | Yes/No |