

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 3388 of 2019 (O&M)
Date of Decision: 18.2.2020

Rakesh Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Shiv Kumar Sharma, Advocate
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 18.11.2019, passed by Additional Sessions Judge, Sangrur, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 17.10.2018, passed by Chief Judicial Magistrate, Sangrur in case FIR No. 398 dated 5.12.2016 under Sections 454, 380, 411 IPC, registered at Police Station City Sangrur, was dismissed.

The brief facts of the present case are that on 5.12.2016, complainant Narinder Kumar got recorded his statement to the effect that on 3.12.2016, he along with his family had gone to Jawalaji and Chintpurni. On 4.12.2016, at about 3.00 P.M., he had received a phone call from his neighbour Jaswinder Kaur that she had seen Rakesh Sharma @ Vicky coming out of their house and running through the street while leaving his motorcycle in the street. The complainant made a telephone call to his elder

brother Pawan Kumar to visit the house. Pawan Kumar informed the

complainant that all the locks of his house had been broken and the articles were scattered. On 5.12.2016, the complainant returned back and on checking he found that gold ornaments weighing 14 tolas amounting to Rs. 4,00,000/- and currency notes of Rs. 25,000/- were missing and he had doubt over Rakesh Sharma alias Vicky for having stolen the above said gold ornaments and currency from his house. On the basis of the statement made by the complainant, the FIR in question was registered. The accused-petitioner was arrested and the gold ornaments and currency notes of Rs. 25,000/- had been recovered from his possession which were taken into police custody.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charge was framed against the petitioner under Sections 454, 380, 411 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as two witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded false implication.

The trial Court vide judgement and order dated 17.10.2018 convicted the petitioner under Section 411 IPC and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 200/- and, in default of payment of fine, to undergo imprisonment for a period of one day. However, the petitioner was acquitted of the charges framed against him under Sections 454 and 380 IPC.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 18.11.2019.

Still aggrieved, the petitioner has preferred the present revision petition.

At the outset, learned counsel for the petitioner has confined his arguments to the quantum of sentence.

Learned counsel for petitioner submits that the petitioner has been in custody for more than three months and the incident in question took place in December 2016 and he has been facing the agony of protracted trial for more than three years. On these premises, learned counsel for the petitioner prays that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him. He has relied upon the judgments passed by this Court in ***Kirpal Singh versus State of Punjab 2008(22) R.C.R. (Criminal) 859.***

Learned State counsel has opposed the prayer and submits that the Courts below have already taken a lenient view.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the Courts below.

Custody certificate by way of affidavit of Harpreet Singh, Deputy Superintendent, District Jail, Sangrur has been filed and the same is taken on record.

As per custody certificate, the petitioner has undergone 03 months and 13 days of actual sentence out of the total sentence of one year. FIR in this case was registered on 05.12.2016. The stolen articles i.e. gold ornaments and the currency notes of Rs. 25,000/- had already been recovered from the petitioner. The petitioner has been facing the agony of trial for the last more than three years. The petitioner has been in custody since 18.11.2019. Thus, taking into consideration the above facts and

keeping the petitioner behind bars to undergo the remaining period of sentence.

Accordingly, the conviction of the petitioner under Section 411 IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him with a condition that he would pay ₹ 25,000/- as compensation to complainant Narinder Kumar.

The petitioner is directed to deposit the fine of Rs. 25,000/- with the Chief Judicial Magistrate concerned within a period of one month from the date of the receipt of certified copy of this order. The fine so deposited, shall be paid as compensation to complainant Narinder Kumar, on identification. It is made clear that in the event of failure to deposit the said amount, the revision petition shall stand dismissed.

The petitioner who is in custody, be set at liberty forthwith, if not required in any other case.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

February 18, 2020
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No