

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

**CRR-108-2020 (O&M)
Date of decision: 16.11.2021**

Hardev Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the judgment of conviction dated 29.11.2016, vide which the petitioner was convicted under Sections 382, 506 of the Indian Penal Code (for short 'IPC') read with Section 34 IPC and Section 25/54/59 of Arms Act and the order of sentence of even date, vide which he was ordered to undergo R.I. for a period of two years with a fine of Rs.1,000/- and in default of payment of fine, to further undergo imprisonment for two months as well as the judgment dated 24.01.2017 passed by the lower appellate Court, vide which the appeal filed by the petitioner was dismissed.

Learned counsel for the petitioner submits that the trial Court awarded two years R.I. under Section 382 IPC read with Section 34 IPC and

two years R.I. under Section 25/54/59 of Arms Act, however, there was no direction that both the sentences will run concurrently and the lower appellate Court, while deciding the appeal, had also not dealt with this issue. It is further submitted that as on today, the petitioner has undergone about 02 years and 02 months of custody, as per the custody certificate dated 02.11.2021, therefore, both the sentences of two years R.I. each awarded by the trial Court under Section 382/34 IPC and Section 25/54/59 of Arms Act may be directed to run concurrently. It is also submitted that the petitioner has already undergone the entire sentence including the sentence of two months in lieu of non-payment of fine.

At this stage, learned counsel restricts his arguments that impugned order of sentence passed by the trial Court may be modified to the extent that sentences will run concurrently.

Learned State counsel, on the basis of custody certificate, has not disputed the factual position that as on today, the petitioner has undergone about 02 years and 02 months of sentence.

Accordingly, this petition is partly allowed, while upholding the judgments of both the Courts below, whereas the order of sentence passed by the trial Court is modified to the extent that both the sentences of two years R.I. each under Section 382/34 IPC and Section 25/54/59 of Arms Act will run concurrently.

Considering the fact that the petitioner has undergone the entire sentence of two years and another sentence of two months in lieu of non-payment of fine, the petitioner be released forthwith from the custody, if he is

not required in any other case.

With the aforesaid modifications, present revision petition is disposed of.

A copy of this order be sent to Superintendent, Central Jail, Patiala as well as trial Court/Illaqa Magistrate, Amritsar to ensure that the petitioner is released forthwith from the custody, if he is not required in any other case.

16.11.2021
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No