

In virtual Court

CRR-645-2021 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-645-2021 (O&M)
Date of decision: 02.07.2021

Rani

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting aside the judgment of conviction as well as the order of sentence dated 18.08.2017, vide which the petitioner was convicted for the offence punishable under Section 411 of the Indian Penal Code (for short 'IPC') and was sentenced to undergo rigorous imprisonment for a period of 01 year R.I. as well as the judgment dated 22.05.2018, vide which the appeal filed by the petitioner was dismissed by the Additional Sessions Judge, Sangrur.

Brief facts of the case are that on 16.04.2012, the police party headed by ASI Major Singh along with other cops, while on patrol duty in order to search for miscreants, were present at Shahi Samad, where one Bimla Devi

wife of Krishan Avtar, resident of Gali No.6, Kishanpura Basti, Sangrur got recorded her statement that on 10.04.2012 at about 9.30 A.M., she was going from Kishanpura Basti to the house of Tulsi Dass (son) resident of Nabha Gate, Barota Street, Sangrur. When she reached near B.S.N.L. Park, then one white colour Zen car stopped near her. The Zen car was driven by a clean shaven driver, from which two ladies alighted. Out of those two ladies, one told her that she is daughter of an Inspector and she will drop her at Nabha Gate. The complainant fell prey to the assurances given by those ladies, as such she boarded car. When the car was plied, those two ladies caught hold the complainant from her arms. One of the lady removed gold bangles from her left hand. When the complainant raised an alarm, she was dropped near Nabha Gate and turned car back. She told the whole incident to her son Tulsi Dass. The complainant and her son Tulsi Dass had been verifying at their own level. She came to know that her bangle was removed by Channi wife of Pal, Seema wife of Davinder both residents of Khudi Road, Barnala, Rani wife of Gurmeet Singh r/o Basti Dhuri, Gurpreet Singh (driver), Kuldeep Singh sons of Ghotu residents of Barnala. On the basis of statement of the complainant, an offence under Sections 382, 34 IPC was found to be committed by the accused, therefore, a written message was sent for the purpose of registration of an FIR, on the basis of which, an FIR was registered. During the investigation, the spot was inspected and site plan was prepared. The accused were arrested. On 20.04.2012, the accused ladies suffered disclosure statement that on 10.04.2012, near B.S.N.L. Park, Sangrur, they forcibly made a lady to sit in the car and

removed a gold bangle from her left arm and when she raised an alarm, she was dropped from the car and they fled away from the spot. The bangle removed from left arm of the complainant was handed over to Rani, who had kept the same in her house. At the instance of accused Rani, she got recovered a gold bangle kept concealed by her in her house, the weight of which was 13 Grams 910 Milligrams. The separate parcel of the bangle was prepared and sealed with seal bearing impression 'NS' and taken into possession.

After completion of the investigation, the challan was presented against the accused was presented before the trial Court. Finding a prima facie case, charges under Sections 382, 411, 34 IPC were framed against the accused, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined ASI Major Singh as PW1, HC Pinjore Singh as PW2, Parveen Kumar as PW3, Tulsi Dass as PW4 and thereafter, the prosecution closed the evidence.

After conclusion of the prosecution evidence, statements of accused were recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against them, was put to them to tender explanation for the same. The accused denied the allegation of the prosecution and pleaded false implication. In defence, the accused did not produce any evidence.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, vide judgment of conviction and order of sentence of even date i.e. 18.08.2017, convicted and sentenced the

petitioner/accused under Section 411 IPC and sentenced her to undergo R.I. of one year. Thereafter, the petitioner preferred an appeal before the lower appellate Court, which was also dismissed vide order 22.05.2018.

Learned counsel for the petitioner submits that the petitioner has already undergone 08 months and 11 days of total sentence including remission, out of 01 year R.I. awarded by the trial Court. It is further submitted that in fact, divergent view has been taken by the trial Court, as in a separate trial, co-accused Channi Kaur was acquitted vide judgment dated 31.03.2017, as at that time, the petitioner and co-accused Seema @ Jeeto were declared proclaimed offenders, as they were not arrested. Later on, a separate trial was conducted after effecting recovery of 13 grams 910 mgs of a piece of gold bangle. It is further submitted that only charge against the petitioner is under Section 411 IPC and there was no charge against the petitioner that she has committed the offence punishable under Section 382 IPC. It is also submitted that the petitioner is a lady aged about 35 years and has her own family to support.

Learned counsel for the petitioner further submits that he has instructions not to challenge the judgments on merits and prays that sentence awarded by the trial Court i.e. 01 year R.I. be reduced to the period already undergone by the petitioner i.e. 08 months and 11 months.

Learned State counsel has filed the custody certificate dated 02.07.2021 in the Court today and has not disputed the fact that the petitioner has undergone total sentence of 08 months and 11 days including remission, out of 01 year R.I. awarded by the trial Court.

In virtual Court

CRR-645-2021 (O&M)

-5-

After hearing learned counsel for the parties, I uphold the judgment of conviction passed by the trial Court, as the same is based on appreciation of prosecution evidence, however, considering the fact that the petitioner is a lady aged about 35 years; she has already undergone 08 months and 11 days of total sentence including remission and she has her own family to support, the present revision petition is partly allowed and sentence awarded to the petitioner is reduced to the period already undergone by her.

Since the petitioner is in custody, she be released forthwith, if not required in any other case.

**[ARVIND SINGH SANGWAN]
JUDGE**

02.07.2021

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No