

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

CRR-1302-2020

Date of decision: 20.04.2021

Bachi @ Bholi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Parminder Singh Sekhon, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab
for the State-respondent.

SUVIR SEHGAL J. (ORAL)

Instant revision petition has been filed challenging the judgment and order of sentence dated 17.10.2016 passed by the learned CJM, Faridkot and judgment dated 02.11.2020 passed by the learned Sessions Judge, Faridkot, whereby the petitioner has been convicted and sentenced in FIR No. 243 dated 29.08.2010, registered for offences under Section 379, 411 IPC at PS City, District Faridkot.

As per the version of the prosecution, FIR was registered on the complaint of Resham Singh, who alleged that on 29.08.2010 when he and his brother, Nirmal Singh, were about to board a bus from Faridkot

to their native village, taking advantage of the crowd, two women snatched his gold chain worth Rs.25,000/- and fled in a Maruti Car, which was being driven by a male. After investigation, challan was presented against accused, Khushkaran Singh, Nathi and Batchi (present petitioner) under Sections 379, 411 IPC. The trial Court framed charge under Sections 382, 411 read with Section 34 IPC against the accused. Vide judgment dated 17.10.2016, the trial Court convicted the petitioner under Sections 382 IPC and sentenced her to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.1000/- and in default of the payment of fine, to further undergo imprisonment for one month. The petitioner was also convicted under Section 411, IPC and sentenced to undergo rigorous imprisonment for 1 year and to pay a fine of Rs.500/- and in default thereof to further undergo imprisonment for 15 days. The appellate Court partly accepted the appeal of the petitioner and by its judgment dated 02.11.2020, set aside the conviction and sentence qua Section 382 IPC. However, the petitioner was convicted and sentenced under Section 379 IPC and ordered to undergo rigorous imprisonment for a period of one year with no order as to fine, while upholding her conviction and sentence under Section 411 IPC. The appellate Court ordered that both the sentences shall run concurrently.

At the outset, counsel for the petitioner has submitted that he does not intend to argue on the conviction of the petitioner under Sections 379 and 411 IPC on merits and restricts his prayer to the reduction of the quantum of sentence of the petitioner to that already undergone by her considering the fact that the petitioner is a 44 years old

lady, who has minor children to look after.

On the other hand, State counsel has opposed the petition on the ground that the petitioner is named as an accused in another FIR which has been registered against her under Section 379-B 411, 34 IPC at Police Station Fatehgarh Sahib. He has filed custody certificate dated 08.04.2021, which is taken on record.

I have considered the respective submissions of the parties.

A perusal of the custody certificate shows that the petitioner has undergone sentence of 5 months and 26 days as on 8 April, 2021. She continues to be in custody during the pendency of the instant revision despite the fact that she has filed an application for suspension of sentence. The petitioner is a middle aged lady and she is stated to have a family to take care of. The alleged incident on the basis of which the FIR was registered took place in the year 2010. The value of the stolen item was about Rs.25,000/-. The mere fact that she has been named as an accused in another criminal case, in which she is yet to face trial, is not a ground for not considering her case for reduction of sentence. Both, the offences under Section 379 and 411, IPC are compoundable by the owner of the stolen property.

Still further, offence under Section 482 IPC which carries a maximum sentence of 10 years, has been set aside by the appellate Court and the petitioner has been found guilty of offence under Section 379 IPC for which she was ordered to undergo rigorous imprisonment for a period of 1 year without any order as to fine. The petitioner has already undergone a period of more than 6 months i.e. more than half of the

sentence imposed on her and is stated not to be a convict previously.

Considering all the above facts, this Court deems it appropriate to reduce the quantum of sentence imposed upon the petitioner. The judgment and order of conviction passed by the appellate Court is confirmed. However, the sentence of one year rigorous imprisonment imposed upon the petitioner while convicting her for the offences under Sections 379 and 411 IPC is hereby reduced to the period already undergone by her. The order of fine imposed by the trial Court is upheld. The petitioner shall be liable to pay the fine imposed by the trial Court, if not already deposited by her and in default thereof she will be liable to undergo the imprisonment as awarded by the trial Court.

The revision petition is partly accepted.

20.04.2021

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No