

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

SR. No.225

CRA-S-2059-SB-2017 (O&M)
Date of decision:11.09.2023

Mohit Kumar @ Manni

...Appellant

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr.Akun Sheemar, Advocate for
Mr. G.S.Sullar, Advocate,
for the appellant.

Mrs. Sheenu Sura, DAG, Haryana.

N.S. SHEKHAWAT, J.

1. This criminal appeal has been preferred by the accused-appellant against the impugned judgment of conviction and order of sentence dated 06.05.2017 passed by the Additional Sessions Judge, Kurukshetra, whereby appeal filed by the complainant against the judgment dated 13.06.2014 passed by the Judicial Magistrate Ist Class, Kurukshetra was allowed.

2. The FIR in the present case has been got registered by Sumit Chugh son of Jugal Kishore by alleging that at about 8/8:30 PM on 14.09.2010, he was standing outside his house. Mohit Vij @ Manni, the accused, came there and snatched his gold chain weighing 18 grams. When

he raised the noise to save him, the people, who were present there, caught

hold of him and gave him beatings for snatching the chain. The complainant took his chain from his hand in front of the people and produced the same to the police and accordingly, the FIR was registered under Section 356/379 IPC.

3. At the very outset, learned counsel appearing on behalf of the appellant submits that he does not wish to challenge the judgment of conviction, but some leniency may be shown, while awarding the sentence to the present appellant. Even though the appellant has not challenged the judgment of conviction, still this Court has examined the merits of the case, on the basis of the evidence led by the parties.

4. In the present case, finding a *prima facie* case under Section 356/379 IPC, the present appellant was ordered to be charge-sheeted by the trial Court. In support of the prosecution case, the prosecution examined complainant Sumit Kumar as PW-1, SI Pritam Singh as PW-2, ASI Karam Chand as PW-3, Jugal Kishore as PW-4 and ASI Mahender Singh as PW-5. The case of the prosecution was proved by the testimony of PW-1 Sumit Kumar. His testimony was further supported by his father PW-4 Jugal Kishore. Both these witnesses have clearly stated that the appellant was caught at the spot and a piece of the chain was also recovered from his hand, which was later on taken on supurdari. Since the appellant was the neighbour of the complainant and was caught at the spot, he was handed over to the police by the complainant and people present at the spot. After arrest, the case was investigated and the part of the gold chain weighing 6 grams 900 mg was recovered from the present appellant, which further corroborates the story of the complainant. Even the MLR of the complainant

further proved that he was injured on his neck, when the chain was snatched by the appellant. Even five injuries suffered by the complainant further corroborated the ocular account of the complainant and his father to the effect that the force was used by the appellant while snatching the chain from the neck of complainant. Thus, there was sufficient evidence that the appellant had snatched the chain from the complainant-victim and had taken away the same dishonestly and the appellant has been rightly convicted under Section 356 IPC.

5. Now adverting to the order of sentence, it is observed that vide the impugned order of sentence, the appellant has been sentenced to undergo rigorous imprisonment for a period of one year. As per the custody certificate produced during the course of hearing, the appellant has undergone 06 days of actual sentence. However he is facing the agony of the trial/appeal for the last more than 13 years. He is aged about 36 years. Even he is working in a small shop and no purpose would be served by sending him behind bars after such a long period. Thus, in view of the facts and circumstances of the case, the ends of justice would be suitably met, if his substantive sentence is reduced to the one already undergone by him.

6. Keeping in view the above discussion, the impugned judgment of conviction dated 06.05.2017 passed by the learned Additional Sessions Judge, Kurukshetra, is upheld. However, the order of sentence is modified to the extent that the substantive sentence of imprisonment awarded by the trial Court is reduced to the period already undergone by the appellant, subject to deposit of Rs.20,000/- as compensation by the appellant with the concerned Chief Judicial Magistrate within a period of 03 months, failing

which, the appellant shall undergo his remaining sentence. The amount of compensation shall be disbursed by the concerned CJM to the complainant against proper receipt and identification.

7. With the above modification, the present appeal stands disposed of in the above terms. Pending application(s), if any, shall also stand disposed of.

(N.S. SHEKHAWAT)
JUDGE

11.09.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO