



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

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CRR-3232-2016 (O&M)

**Shailesh Kumar
Vs.
State of Haryana**

.....Petitioner

.....Respondent

CRR-3346-2016 (O&M)

**Hitesh Kumar
Vs.
State of Haryana**

.....Petitioner

.....Respondent

Date of Decision.:21.05.2024

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sameer Sachdeva, Advocate for
the petitioner in CRR-3232-2016 (O&M).

Mr. Sandeep Singh Sangwan, Advocate for
the petitioner in CRR-3346-2016 (O&M).

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J. (ORAL)

The two petitioners Shailesh Kumar @ Amar Parkash and
Hitesh Kumar along with one other namely Vivek @ Vicky were tried by
the Court of learned JMIC, Rohtak in criminal case No.169-1 of 2009
arising out of FIR No.264 dated 14.06.2009 registered at Police Station

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Urban Estate, Rohtak under Sections 419, 420, 467, 468, 471, 120-B of the IPC. Vide judgment dated 20.01.2016, though accused Vivek @ Vicky was acquitted of the charges but conviction of the two petitioners was recorded. Petitioner Shailesh Kumar was held guilty under Section 419 of the IPC whereas petitioner Hitesh Kumar was held guilty under Section 120-B read with Section 419 of the IPC. They were convicted accordingly. Vide separate order dated 21.01.2016 both of them were sentenced to undergo rigorous imprisonment for a period of one year each and also to pay fine of ₹5,000/- each with default sentence for offences committed by them. The two petitioners filed separate appeals against the aforesaid judgment of conviction and sentence but the same was dismissed by the Court of Sessions vide judgment dated 29.08.2016. Against the aforesaid judgment dated 29.08.2016 by the Court of Sessions, these two separate petitions have been filed.

2. Today learned counsel appearing for both the petitioners has made a statement at the outset that petitioners withdraw their petitions against the impugned judgment of conviction as recorded by the Trial Court and affirmed by the Appellate Court.

3. Learned counsels submit that occurrence had taken place wayback in June, 2009 i.e. approximately 15 years ago. It is submitted further that the two petitioners have already undergone custody period of approximately 03 months each and so, looking into the nature of crime, the

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impugned order of sentence be modified and they be released on probation or the judgment of sentence may be modified so as to sentence them for the period already undergone by them.

4. Learned State counsel has no serious objection to accept the prayer of the counsel for the petitioners to modify the order of sentence, by sentencing the petitioners for the period already undergone by them.

5. Perusal of the paper-book would reveal that as per the allegations, petitioner Shailesh Kumar @ Amar Parkash was apprehended while giving Pre-Medical Test (PMT), 2009 Entrance Examination in place of petitioner Hitesh Kumar. The occurrence took place on 14.06.2009 i.e. approximately 15 years back. The petitioners were student at the relevant time. The custody certificate would reveal that petitioner Hitesh Kumar has already undergone actual sentence of 02 months and 12 days, whereas petitioner Shailesh Kumar @ Amar Parkash has already spent period of 03 months and 11 days in custody, out of 01 year imprisonment imposed upon them. It is revealed further that none of them have any other criminal case pending against them. Looking into the nature of allegations, the fact that occurrence had taken place more than 15 years back, that petitioners have been facing agony of all these proceedings during all this period, and the fact that they are the first offender, this Court is of the opinion that interest of justice will be met by sentencing the petitioners for the period already undergone by them.

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6. As such, the impugned order of sentence as passed by the Trial Court and affirmed by the Appellate Court is hereby modified to the effect that the two petitioners are sentenced to imprisonment for the period already undergone by them.

Disposed of.

A photocopy of this order be placed on the connected case file.

(DEEPAK GUPTA)
JUDGE

May 21, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No