

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2941-2023 (O&M)
Date of Decision: 22.02.2024
2024:PHHC: 025338

NAVEEN SHARMA

.... PETITIONER

Vs.

THE STATE OF HARYANA

.... RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Dhruv Gupta, Advocate, for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.

Petitioner Naveen Sharma along with one Mangal Sharma have been convicted by the court Ld. JMIC, Yamuna Nagar, under Section 452 and 323 read with Section 34 of the IPC in a case arising out of FIR No.194 dated 17.04.2016 registered at Police Station City Yamuna Nagar vide judgement dated 11.06.2018, though they were acquitted of the charge under Section 506 IPC. Vide a separate order of the same date, petitioner and co-accused were sentenced as under:

Conviction under Section	Sentence
452 IPC read with 34 IPC	To undergo RI for a period of 1 year and fine of ₹1000/- each
323 read with 34 IPC	To undergo RI for a period of 3 months.

Both the sentences were directed to run concurrently. The fine was paid.

2. Against the aforesaid judgment of conviction and order of sentence, petitioner along with co-convict Mangal Sharma filed appeal before the Court of Sessions. Vide judgment dated 13.12.2023, Id. Sessions Judge,

Yamunanagar dismissed the appeal against conviction qua both the convicts. Though, order of sentence qua co-convict Mangal Sharma was modified and he was ordered to be released on probation, but the order of sentence qua petitioner-Naveen Sharma was maintained.

3. It is against the aforesaid judgment of conviction and order of sentence, as recorded by the trial Court and affirmed by the appellate Court that present revision petition has been filed.

4. After issuing notice of motion, the matter was fixed before this Court for considering the application [CRM-54107-2023] under Section 389 (4) CrPC for suspension of sentence, when statement has been made by ld. counsel for the petitioner so as to withdraw the appeal against conviction, but with a further prayer to modify the order of sentence and to sentence the petitioner to imprisonment for the period already undergone by him.

5. Ld. counsel contends that petitioner was not given the benefit of probation by the ld. Sessions Court on account of his previous conviction. Ld. counsel points out that previous conviction had been recorded way back in 2009 and that he had completed his sentence much earlier.

6. Ld. State counsel has no objection to accede to the aforesaid prayer.

7. In view of the aforesaid statement made by ld. counsel for the petitioner, the present revision against judgment of conviction as recorded by the ld. trial Court and as affirmed by the appellate Court qua petitioner is hereby dismissed as withdrawn.

8. However, as far as order of sentence is concerned, the same is modified. The custody certificate reveals that petitioner has already undergone custody period of 3 months and 9 days, which also includes the post

conviction period of 2 months and 9 days.

9. Having regard to the nature of offence and the fact that previous conviction was recorded much earlier, it is considered by this Court that the sentence already undergone by the petitioner is adequate enough to meet the ends of justice. Consequently, the impugned order of sentence is hereby modified. Petitioner is sentenced to imprisonment for the period already undergone by him.

22.02.2024

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	No