

Punjab-Haryana High Court

Mamlook Ali vs State Of Haryana on 25 September, 2008

Criminal Revision No.1342 of 2008.

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In the High Court of Punjab and Haryana at Chandigarh.

Criminal Revision No.1342 of 2008.

Date of decision:25.9.2008.

Mamlook Ali.

...Petitioner.

Versus

State of Haryana.

...Respondent.

...

Coram: Hon'ble Mr. Justice K. C. Puri.

...

Present: Mr. Sachin Mittal, Advocate for the petitioner.

Mr. S.S.Goripuria, DAG Haryana.

...

K. C. Puri, J.

Judgment This Criminal Revision petition has been filed against the judgment and order dated 5.12.2006 passed by Shri C.L.Mohal, Additional Chief Judicial Magistrate, Jagadhri whereby the petitioner was held guilty for offences punishable under Sections 170, 465, 468, 471, convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Criminal Revision No.1342 of 2008.

Rs.500/- and in default of payment of fine, to undergo imprisonment for a period of one month under Section 170 IPC; to undergo imprisonment for a period of six months and fine of Rs.500/- and in default of payment of fine, to undergo imprisonment for a period of one month under Section 465 IPC; to undergo imprisonment for a period of two years and fine of Rs.2,000/- and in default of payment of fine, to undergo imprisonment for a period of four months under Section 468 IPC and to undergo imprisonment for a period of two years and fine of Rs.2,000/- and in default of payment of fine, to undergo imprisonment for a period of four months under Section 471 IPC. All the sentences were ordered to run concurrently.

The petitioner has also impugned the judgment dated 16.7.2008 delivered by Shri Darshan Singh, Additional Sessions Judge, Yamuna Nagar whereby his appeal was dismissed.

As per the prosecution case, the petitioner was booked in the present case, at the instance of PW-2 Complainant Parveen Kumar Garg, who in his statement Exhibit PB, on the basis of which the present case was registered, has stated that on 19.4.1999, his daughter Shaveta went to school but did not return and in that regard, he got lodged one F.I.R in the police station and even an advertisement was published in the newspaper "Punjab Kesri"

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about her missing.

The complainant further stated that on 22.5.1999, at about 5-00 P.M, he along with his brother-in-law Naresh Kumar Mittal was present at his house. In the meantime, a boy came there and told his name as Mamlook Ali. The accused apprised the complainant that he had come from C.B.I and also showed his identity card. Thereafter, he told that the Head Office of C.B.I had sent him for investigation of his missing girl. He asked for a room for his residence and for arrangement of a two wheeler. He (complainant) got suspicious and when he asked that boy about his authenticity, earlier he refused, but , later on, admitted that he was not a C.B.I official. He then informed the police.

During the investigation of the case, the accused/petitioner was arrested. He was interrogated and fake identity card, news-paper cutting about advertisement/notice regarding missing of Shaveta and a rubber stamp were recovered from his possession.

Statements of the witnesses under Section 161 Cr.P.C were recorded and after completion of investigation, final report under Section 173 Cr.P.C was presented before the Court of law.

The accused/petitioner was charge-sheeted accordingly to which he pleaded not guilty and claimed trial.

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The prosecution, in support of its case, examined PW-1 Naresh Kumar Mittal, PW-2 complainant Parveen Kumar, PW-3 SI Narinder Kumar and PW-4 SI Ajit Kumar, Investigating Officer of the case.

After the conclusion of prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. He pleaded himself to be innocent.

However, the accused did not produce any evidence in his defence.

On an appreciation of the entire evidence on the record, the learned trial Court convicted and sentenced the accused as detailed above and his appeal was also dismissed, as noticed earlier.

At the outset, the learned counsel for the petitioner has taken up a stand that having regard to the concurrent findings returned by the Courts below in relation to the conviction of the petitioner for the offences in question, he may not be able to persuade this Court to take a contrary view and that, too, on re- appraisal and re-appreciation of the evidence on record. Consequently, instead of pressing this Criminal Revision Petition, on merits, the learned counsel for the petitioner has vehemently argued that the alleged occurrence had taken place in the year 1999 Criminal Revision No.1342 of 2008.

and the petitioner faced a protracted trial for about nine years; the petitioner had already undergone more three months of actual imprisonment out of total sentence of two years and that it will be inequitable to send him to jail again at this stage.

The learned State counsel, though, does not dispute the afore-mentioned mitigating circumstances, yet he contends that in view of nature of the offence proved against the petitioner, it might not be a fit case for reducing the sentence already awarded to the petitioner.

Apart from considering the fact that the impugned judgments are based on cogent and reliable evidence, it is to be seen that this Criminal Revision was admitted on the quantum of sentence only. Therefore, the conviction of the petitioner is confirmed.

Keeping in view the cardinal principle of law that right of speedy and expeditious trial is one of the most valuable and cherished right of an accused; the purpose of punishment in criminal cases is that the person found guilty of committing the offence is made to realize his fault and is deterred from repeating such acts in future; that the reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being and the Criminal Revision No.1342 of 2008.

fact that within the parameters of the law, an attempt should be made to afford an opportunity to the individual to reform himself and lead the life of a normal, useful member of society and make his contribution in that regard. The accused, by his act, has not harmed anyone. So, keeping in view the totality of circumstances, the ends of justice would be fully met if the sentence of the petitioner is reduced to the period already undergone by him but the amount of fine is enhanced suitably.

Therefore, the sentence of the petitioner is reduced to the period already undergone by him but the amount of fine is enhanced to Rs.10,000/-.

However, in default of payment of fine, the accused/petitioner shall undergo rigorous imprisonment for a period of three months.

This Criminal Revision is disposed of in the manner indicated above.

A copy of this judgment be sent to the learned trial Court for strict compliance.

September 25, 2008.

(K. C. Puri)

Jaggi

Judge

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