

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

**C.R.R. No.1001 of 2003 (O&M)
Date of Decision : 21.01.2015**

Raj Kumar Chaudhary

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

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Present: Mr. Jaivir Yadav, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.A.G., Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J.(ORAL)

This revision petition has been filed against the concurrent judgments of the Courts below convicting the petitioner and sentencing him to undergo rigorous imprisonment of 2 years under Section 420 IPC.

The allegations levelled against the petitioner is that he had taken the money from the complainant to get her nephew appointed in the BSF but this was a false pretext since her nephew

was never appointed. The petitioner was introduced to the complainant by one Puran Chand Mistri (PW2) who was a distant relative of the petitioner. PW2 appeared to give testimony about the particular transaction whereby the complainant had given money to the petitioner. Two other persons also appeared who stated on oath that the petitioner had similarly taken money from them also on false pretext of giving them jobs. Both the Courts below have believed the aforesaid testimonies and have convicted the petitioner as mentioned above.

Learned counsel for the petitioner has drawn attention of this Court to some minor inconstancies in the testimony of the complainant and Puran Chand (PW2) to contend that the payment of the money was not proved. He has stressed on the fact that the complainant just stated that some amount was paid by her and later on she changed her stand that the amount was actually brought by her from some financier. As per the learned counsel, that financier did not appear as witness and once he did not appear the whole stand of the complainant would be falsified. He has further argued that even the nephew of the complainant who was the actual victim was not examined as witness. He has further argued that Puran Chand(PW2) first stated that after taking money the petitioner left the place but later on in cross-examination admitted that he had left the place prior to the petitioner. In these circumstances, he has argued

that handing over of the money is not proved.

In my opinion, the learned counsel for the petitioner is trying to cherry-pick those pieces of the testimony which suit him. As mentioned above, on the cumulative analysis of the testimony of all the witnesses the Courts below have come to the conclusion that the petitioner is guilty. There is no believable reason why those witnesses would appear to testify against the petitioner. In these circumstances, I see no reason to set aside the impugned judgments of the Courts below.

Learned counsel for the petitioner has further argued that the allegation pertains to an incident which happened 21 years ago and on this score there may be some scope for reduction of sentence. He has further argued that the petitioner has already undergone 5 months of imprisonment and prays that his sentence be reduced to that which he has already undergone.

In my opinion, the act of defrauding disentitles the petitioner from any mercy. However, it cannot also be denied that the incident happened more than 21 years ago.

In the circumstances, even while upholding the conviction of the petitioner I reduce the sentence of the petitioner to 1½ years. The petitioner is on bail. He be arrested forthwith to serve out the remaining part of his sentence.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

January 21, 2015

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**(AJAY TEWARI)
JUDGE**