

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-474 of 2006 (O&M)
Date of Decision:25.03.2015

Mahabir Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Rakesh Bakshi, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana for the respondent.

NAVITA SINGH, J.

1. The petitioner was convicted and sentenced by the Judicial Magistrate 1st Class, Ambala Cantt on 22.12.2000 for the offences punishable under Sections 408,468 and 471 of the Indian Penal Code (IPC for short). His appeal was dismissed by Additional Sessions Judge, Ambala on 22.2.2006.

2. The case against the petitioner was that while working as Secretary of the Cooperative Credit and Service Society, Adhoya, he committed embezzlement of Rs.1,68,081/-. He had received the amount from different members of the Society while he was in harness and misappropriated the same. During investigation, again it was found that he had embezzled an amount of Rs.1,19,077/- .

3. Charges were drawn up by the trial Court under Section 408, 468 and 471 IPC. The trial Court relied on the prosecution evidence and held that the guilt was brought home to the convict. However, from the evidence it was shown that certain amount was received by the petitioner,

who had issued receipts to different members of the Society, but the amount was not accounted for in the record and he misappropriated the money. No material was there regarding forgery or using forged documents as genuine.

4. Counsel for the petitioner submitted that the FIR was of 1986. Shortly before that, the petitioner had lost his son, and his wife was under depression. He used to go to office for sometime to sign the relevant documents. The cash books allegedly signed by the petitioner as Secretary of the Cooperative Society were not produced in court.

5. Then without going into the merits of the petition, counsel for the petitioner submitted that the latter has already undergone agony for 28 years and he faced trial from 1989 to 2000. His appeal remained pending from January 2001 to February 2006 before Additional Sessions Judge, Ambala. Due to the conviction, he lost his job and his age now is 64 years. Submission was made that offences under Section 468 and 471 IPC were not made out and the sentence of the petitioner under Section 408 IPC may be reduced to the period already undergone by him during trial.

6. The prosecution laid the entire stress in evidence regarding misappropriation of the amount deposited with the petitioner by the members of the Society and no proper evidence was led to show that offences under Sections 468 and 471 IPC stood committed. The petitioner is, therefore, acquitted of the charges under Sections 468 and 471 IPC. So far as the Section 408 IPC is concerned, the counsel having not pressed the petition on merits and having made a request only for reducing the sentence to the period already spent in custody by the petitioner, it is felt that the request is reasonable as the petitioner is practically facing agony since

1986. He lost his son and also lost his job. Nature had punished him enough.

7. The revision against the order of conviction under Section 408 IPC is, therefore, dismissed. However, the sentence for the said offence is reduced to the period already spent in custody by the petitioner as an undertrial.

8. The petition is disposed of in the above terms.

(NAVITA SINGH)
JUDGE

25.03.2015
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