

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

CRR-646 of 2007 (O&M)

Date of decision: 02.09.2015

Naib Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Harish Davedi, Advocate for the petitioner.

Mr. Mehardeep Singh, AAG, Punjab
for the State.

Jitendra Chauhan, J.

The present revision petition along with two other revision petitions bearing CRR No. 474 of 2007 and CRR No. 645 of 2007, are being decided by way of this common order, as these have been arisen out of the same case/FIR registered against the present petitioner. However, the facts are being derived from CRR No. 646 of 2007.

By filing the present criminal revision, the petitioner has assailed the judgment dated 19.01.2007, vide which, the learned Addl. Sessions Judge, FTC, Ludhiana, dismissed the appeal filed by

the petitioner against the judgment of conviction dated 03.05.2003, passed by the learned Sub Divisional Judicial Magistrate, Samrala, whereby, the petitioner was convicted under Sections 408, 420, 468, 471 and 477-A of the Indian Penal Code (for short 'IPC') and sentenced to undergo RI for a period of one year and fine of Rs. 500/- and in default of payment of fine, to further undergo simple imprisonment for 15 days, in each offence. The sentences were ordered to run concurrently. However, the sentence was reduced to six months.

The prosecution case against the petitioner is that while he was working as salesman with the Cooperative Agricultural Service Society, Kakrala Kalan, he had embezzled the amount, which he was duly authorized to collect from the members of the society.

On commitment, the accused/petitioner was charged sheeted under Sections 408, 420, 471 and 477-A IPC, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Gurdeep Singh; PW-2 Nachhattar Singh; PW-3 Jagir Singh; PW-4 Rupinder Singh; PW-5 SI Ajaib Singh and PW-6 ASI Dharam Singh.

The statements of the accused under Section 313 Cr.P.C., was recorded. He pleaded not guilty and alleged false implication. In defence, the accused/petitioner examined PW-1 Ram Dhan and DW2 Pardeep Kumar.

After hearing the Public Prosecutor for the State, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/petitioner, as stated hereinbefore.

Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioner which was admitted on 16.04.2007. The sentence of accused/petitioner was suspended on the same day.

The learned counsel for the petitioner does not press the revision petition on its merit and has submitted that the petitioner is the sole bread winner of his family and has suffered a protracted trial as the FIR was registered on 26.08.1996; he never misused the concession of bail during the trial as well as during the pendency of the present revision petition. He is a first offender and has already undergone 03 months and 04 days out of substantive sentence of six months. Thus, the learned counsel prays for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposed the prayer of petitioner/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and has carefully gone through the record of the case.

The prosecution case is fully proved by the statements of

the prosecution witnesses. There is no flaw in the unassailed judgment of conviction. There is no merit in this present revision petition which is dismissed on merits.

In Ghanshyam Vs. State of Maharashtra, 2012(5)

RCR (Criminal) 744, it has been held as under:-

“We have heard the learned counsel for the appellant, learned counsel for the State and learned counsel for the complainant. In our considered view, ends of justice would meet if, while upholding the conviction of the appellant, the sentence is reduced to the period already undergone by him. We direct accordingly.”

Further in Yadwinder Singh Vs. State of Punjab, 2009

(3) RCR (Criminal) 245 , it has been held as under:-

“Learned counsel for the petitioner during the course of arguments has not challenged the conviction of the petitioner under Sections 420, 465, 468, 471 IPC as ordered by the courts below. Learned counsel has submitted that petitioner has already undergone more three months of actual sentence and is facing criminal proceedings since the year 1998. Petitioner has lost his job on account of registration of this case. Petitioner is not a previous convict. Fine as ordered by the courts below has also been deposited by the petitioner. Learned counsel has submitted that the sentence of imprisonment of the petitioner be reduced to already undergone by him.”

The petitioner has suffered agony of a protracted trial. It is one of the mitigating circumstance to treat him leniently. The petitioner is stated to be first time offender. He has already undergone 03 months and 04 days sentence, out of the substantive sentence of six months. In view of the above, the prayer made on behalf of the petitioner is accepted. The sentence awarded to the petitioner is ordered to be reduced to the period already undergone.

Ordered accordingly.

However, the fine is further enhanced to ₹5,000/- in each case to be paid within four months after the receipt of certified copy of the order. It is made clear that if the enhanced amount of fine is not paid within the stipulated period, the present revision petition shall be deemed to be dismissed without any notice.

02.09.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE