

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 16.09.2015

1. CRR-863-2006

Gurdev Singh and others

... Petitioners

Vs.

State of Punjab

... Respondent

2. CRR-950-2006

Khan Singh and another

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Amit Dhawan, Advocate
for the petitioners (in CRR-863-2006)

Mr. S.C. Chhabbra, Advocate
for the petitioners (in CRR-950-2006).

Mr. Daljit Singh Virk, AAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

These two identical criminal revision petitions bearing CRR-863-
2006 (Gurdev Singh and others Vs. State of Punjab) and CRR-950-2006

(Khan Singh and another Vs. State of Punjab), at the hands of the convicts, directed against the same impugned judgment, are being decided together, vide this common order, as both are based on same set of allegations arising out of the same FIR. However, for the facility of reference, facts are being culled out from CRR-863-2006.

Briefly put, facts of the case, as noticed by the learned Additional Sessions Judge, in para 2 of the impugned judgment, are that on the application of Mahinder Ram son of Jattu Ram, resident of Village Pindi, the present case was registered after the enquiry conducted by the Senior Superintendent of Police, Ferozepur and after getting the legal opinion from the A.D.A. (Legal). The accusation against the accused-appellants was that land measuring 24 Kanals, bearing khasra No.24 Killa No.23, 24 & 25, situated in a Village Chak Megha Viran was under his ownership and his brother Mehanga Ram. The accused persons Gurdev Singh son of Ganga Singh, Khan Singh Sarpanch. Jagir Singh son of Inder Singh, forged registered sale deed in their own names by impersonating the complainant and his brother Mehanga Ram. Accused Khan Singh Sarpanch and accused Jagir Singh were the witnesses of the abovesaid forged sale deed and it was also in their knowledge that the vendors were not Mohinder Ram and Mehanga Ram. The complainant party came to know about the forged registered sale deed, when they approached to the Patwari for the delivery of Jamabandi, who disclosed them that the land had already been sold and consequent to that, the accused-appellants had already secured loan from the Kapurthala Bank and mutation qua the sale had already been sanctioned. Then the complainant party moved an application to the sub-Registrar for obtaining the photographs of their

forged signatures from the office copy, which had been lying in the office of the sub-Registrar. They also sought the report of handwriting and fingerprint expert regarding the alleged forged signatures on the sale deed. During the course of investigation, original sale deed dated 17.08.1988 was also taken into police possession. Besides the said sale deed, two more registered sale deeds dated 25.09.1987 and 11.05.1989 were also taken into police possession, which were bearing the signatures of Mehanga Ram and Mohinder Ram (complainant party) and the date sheet of Gurdev Singh accused-appellant was also taken into possession, on which signatures appended by Gurdev Singh were his admitted signatures. Specimen signatures of Mohinder Ram and Mehanga Ram and thumb impressions of Khan Singh and Jagir Singh were also obtained. On affirmation of the allegations of the prosecution and after completion of investigation formalities, challan against the accused was presented in the Court of trial.

The challan having been presented by the investigating agency, copies thereof along with the documents attached therewith, were supplied to the accused persons, as required under Section 207 of the Code of Criminal Procedure ('Cr.P.C.' for short). A prima facie case was found to be made out and accordingly the accused were charge-sheeted for the offences punishable under Sections 120-B, 419, 420, 467, 468, 471 of the Indian Penal Code ('IPC' for short). Accused pleaded not guilty and claimed trial.

With a view to prove its case, prosecution examined as many as 18 PWs, besides producing on record other relevant documentary evidence. On conclusion of the prosecution evidence, statements of accused were recorded under Section 313 of Cr.P.C. All the incriminating material brought

on record, was put to the accused. Accused denied the allegations, alleged false implication and pleaded complete innocence. Opting to lead evidence, accused examined one DW, besides producing other relevant documentary evidence in their defence.

After hearing learned counsel for the parties and going through the evidence brought on record, learned trial Court came to the conclusion that the prosecution has proved its case, bringing home the guilt against the accused. Accordingly, the accused were held guilty and were convicted for the offences punishable under Sections 120-B, 419, 420, 467, 468, 471 IPC, vide impugned judgment of conviction dated 13.06.2000. Thereafter, all the five convicts were awarded the following sentences, vide impugned order of sentence of even date i.e. 13.06.2000: -

<i>"S. No.</i>	<i>Name of accused</i>	<i>Offence</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default of payment of fine</i>
<i>1.</i>	<i>Gurdev Singh</i>	<i>120-B IPC</i>	<i>3 months</i>	<i>100/-</i>	<i>15 days</i>
		<i>420 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>467 IPC</i>	<i>2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>468 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>On month</i>
		<i>471 IPC</i>	<i>one year</i>	<i>100/-</i>	<i>15 days</i>
<i>2.</i>	<i>Gurmit Singh</i>	<i>120-B IPC</i>	<i>3 months</i>	<i>100/-</i>	<i>15 days</i>
		<i>419 IPC</i>	<i>1 year</i>	<i>150/-</i>	<i>15 days</i>
		<i>420 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>467 IPC</i>	<i>2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>468 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>On month</i>

		<i>471 IPC</i>	<i>one year</i>	<i>100/-</i>	<i>15 days</i>
3.	<i>Chhinder Pal Singh</i>	<i>120-B IPC</i>	<i>3 months</i>	<i>100/-</i>	<i>15 days</i>
		<i>419 IPC</i>	<i>One year</i>	<i>150/-</i>	<i>15 days</i>
		<i>420 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>467 IPC</i>	<i>Two years</i>	<i>200/-</i>	<i>One month</i>
		<i>468 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>On month</i>
		<i>471 IPC</i>	<i>one year</i>	<i>100/-</i>	<i>15 days</i>
4.	<i>Khan Singh</i>	<i>120-B IPC</i>	<i>Three months</i>	<i>100/-</i>	<i>15 days</i>
		<i>420 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>467 IPC</i>	<i>Two years</i>	<i>200/-</i>	<i>One month</i>
		<i>468 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>On month</i>
5.	<i>Jagir Singh</i>	<i>120-B IPC</i>	<i>3 months</i>	<i>100/-</i>	<i>15 days</i>
		<i>420 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>One month</i>
		<i>467 IPC</i>	<i>Two years</i>	<i>200/-</i>	<i>One month</i>
		<i>468 IPC</i>	<i>1-1/2 years</i>	<i>200/-</i>	<i>On month”</i>

All the sentences were ordered to run concurrently.

Feeling aggrieved against the abovesaid impugned judgment of conviction and order of sentence, all the five convicts filed their appeal, which also came to be dismissed by the learned Additional Sessions Judge, Ferozepur, vide his impugned judgment dated 28.03.2006. Hence these two identical criminal revision petitions, at the hands of the convicts-petitioners.

Notice of motion was issued and therefore, both the revision petitions were admitted, while suspending the sentences of the petitioners, vide order dated 07.07.2006. That is how, this Court is seized of the matter.

Separate custody certificates by way of affidavits dated 10/11.09.2015 filed in the Court today, are taken on record.

Learned counsel for the petitioners in both the cases, at the very outset, submit that keeping in view the totality of facts and circumstances of the case, they do not intend to press these petitions on merits. They further submit that let the conviction of the petitioners be upheld and both these petitions may be considered, only for the limited purpose, i.e., regarding quantum of sentence.

Highlighting the other mitigating circumstances in favour of the petitioners, both the learned counsel for the petitioners submit that the common allegations against the petitioners in both the cases were that, the petitioners forged the signatures of the complainant and his brother, with a view to get the sale deed registered. Complainants filed a Civil Suit for declaration which was decreed and the sale deed was set aside. Thereafter, complainants sold some land out of the same land, which was involved in the abovesaid sale deed, to the petitioners themselves for due consideration, vide registered sale deed No.4454 dated 18.12.2002 i.e. during the pendency of the appeal of the petitioners, before the learned Additional Sessions Judge.

Referring to the separately filed custody certificates by way of affidavits dated 10/11.09.2015 in both these cases, learned counsel submit that in terms of the custody certificates, all the petitioners have undergone total custody for 01 year, 03 months and 24 days, including the period of remission, out of total sentence awarded to them for two years R.I. They also submit that the petitioners had been facing the agony of criminal trial for the last more than 25 years, which entitles the petitioners for the reduction of the

sentence to the period already undergone by them. Petitioners were not the previous convicts nor they have been found involved in any other case and they were only bread-earners of their respective families. They pray for allowing both these criminal revision petitions.

On the other hand, learned counsel for the State submits that since the learned Courts below have already taken a lenient view in favour of the petitioners, they are not entitled for any further reduction in the sentence. He prays for dismissal of both these petitions.

After hearing learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, it is just and expedient to reduce the sentences of the petitioners to the period already undergone by them, while upholding their conviction, for the following more than one reasons.

Criminal law was set into motion by registration of FIR on 21.07.1990. Petitioners had been facing the agony of criminal trial for the last 25 long years. Neither the petitioners were previous convicts nor they have been found involved in any other criminal case. It is also not denied that the petitioners were the only bread-winners of their respective families. As per the terms of custody certificates, every petitioner has undergone the total custody for a period of 01 year, 03 months and 24 days, including the period of remission, out of total sentence awarded to them for two years R.I.

Further, after getting the first sale deed set aside, by way of Civil Suit for declaration, complainant himself sold some land to the petitioners which was involved in the earlier sale deed. Complainants sold the said land

to the petitioners themselves, which shall also bring down the gravity of the offence, initially alleged against the petitioners. Having said that, this Court feels no hesitation to conclude that ends of justice will be adequately met, if while upholding the conviction of the petitioners, their sentences are reduced to the period already undergone by them.

The abovesaid view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in the case of **2006(4) R.C.R. (Criminal) 645** titled as “**R. Soundarajan v. Seed Inspector, Coimbatore and another**” and “**Umrao Singh v. State of Haryana, 1981 AIR (SC) 1723.**”

The relevant observations made by the Hon'ble Supreme Court in the case of **R. Soundarajan v. Seed Inspector, Coimbatore and another** (supra) are as under:-

“26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment.”

In “**Umrao Singh v. State of Haryana** (supra), the Hon'ble

Supreme Court observed as under:-

“After hearing counsel for the parties, we are satisfied that this is a case falling under the proviso of Section 16 (1)(a)(i) and therefore, for adequate and special reasons, the sentence lower than the minimum prescribed could be awarded. The High Court itself felt bound to award the minimum sentence but on merits was satisfied that if the legal position warranted the appellant could be given lesser sentence. We are in agreement with the view of the High Court. The appellant/ petitioner is aged about 70 and suffering from asthma illness and has a clean past record. Besides, the percentage of deficiency that was noticed in the milk sold by him was 0.4% in the fat contents. 2. Having regard to these facts, the expression of the view of the High Court was justified. We accordingly reduce the sentence of the appellant to the period already undergone. The sentence, of fine is maintained and we are informed that he has already paid the fine. Since he is already on bail, he should be released forthwith. 3.The appeal is disposed of accordingly.”

Coming back to the fact situation of the present case and respectfully following the law laid down by the Hon'ble Supreme Court, in the cases referred to hereinabove, it can be safely concluded that the petitioners deserve the concession of reduction of sentences to the period already undergone by them.

No other argument was raised.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned, this Court is of the considered view that both these criminal revision petitions deserve to be partly accepted.

Consequently, conviction of the petitioners is upheld. However, their sentence is ordered to be reduced to the period already undergone by them. Since the petitioners are already on bail, their bail bonds/surety bonds shall stand discharged.

Resultantly, with the abovesaid observations made, both these criminal revision petitions stand disposed of, in the terms as indicated above, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

16.09.2015
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