

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

**CRR No.3480 of 2013 (O&M)
Date of Decision: 4.11.2015**

Smt. Krishna Rana and another

.....Petitioners

Vs.

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Vikas Kumar, Advocate
for the petitioners.

Mr. M.K.Sangwan, DAG, Haryana.

1. To be referred to the Reporters or not? Yes

2. Whether the judgment should be reported in the Digest?

RAMESHWAR SINGH MALIK J.

Present criminal revision petition, at the hands of the convicts, is directed against the impugned judgment dated 17.12.2012 passed by the learned Additional Sessions Judge, Faridabad, whereby appeal of the petitioners against the judgment of conviction dated 10.1.2012 and order of sentence dated 14.1.2012, was dismissed and their conviction as well as sentence was upheld.

Brief facts of the case, as recorded by the learned trial court in para 2 and 3 of its impugned judgment, are that the prosecution case was based on the complaint of Guljar Singh son of

Sh. Gurdeep Singh village Pundri District Kaithal, addressed to Superintendent of Police, Sector-16, Faridabad, received vide Dairy No. 2642 dated 5.8.2002, wherein it was stated that a person named Ranjeet Singh Rana residing in House No. E-38, Defence Colony, Faridabad cheated him by charging ₹5 lacs with an assurance that he would get a visa for America and for this purpose, he had taken his passport for submission of visa application. Around three years have lapsed, but till date neither he got the visa issued nor returned his passport nor returned the money in spite of regular follow up.

Upon this complaint, FIR was got lodged. In further investigation, the rough site plan of the spot was prepared and accused were arrested. Statements of the witnesses under Section 161 Cr.P.C., were recorded. Necessary documents were taken into possession. After completion of investigation and finding substantial incriminating material against the present accused, challan was presented before the Court by SHO of the concerned police station.

Police report under Section 173 (2) of the Code of Criminal Procedure ('Cr.P.C.' for short) having been presented in the court, copy thereof alongwith documents attached thereof was supplied to the accused. A prima facie case was found to be made out and accordingly, accused were charge sheeted for the offence punishable under Sections 420/120-B/406 of the Indian Penal Code ('IPC' for short). Accused pleaded not guilty and claimed trial. In order to prove its case, prosecution examined as many as 6 PWs, besides tendering other relevant documents into evidence.

On closure of the prosecution evidence, statements of the

accused were recorded under Sections 313 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. However, they did not lead any defence evidence.

After hearing learned counsel for both the parties and going through the evidence brought on record, learned trial court came to the conclusion that prosecution has proved its case only qua offence punishable under Sections 420/120-B IPC, however, failed to prove its case qua offence under Section 406 IPC. Accused were convicted vide impugned judgment of conviction dated 10.1.2012. Consequently, vide order of sentence dated 14.1.2012, convicts were sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹500/-, for commission of offence punishable under Section 420 read with Section 120-B IPC. In default of payment of fine, they were ordered to further undergo simple imprisonment for two months. Similarly, each of the convicts was sentenced to under rigorous imprisonment for a period of one year and to pay a fine of ₹500/- for the offence punishable under Section 120-B IPC. In default of payment of fine, they were ordered to further undergo simple imprisonment for two months. Both the sentences were ordered to run concurrently.

The abovesaid impugned judgment of conviction and order of sentence were challenged by the petitioners by way of appeal, which also came to be dismissed by the learned Additional Sessions Judge, vide impugned judgment dated 17.12.2012. Hence, this

criminal revision petition.

Vide notice of motion order dated 12.2.2014, revision petition was admitted and registry was directed to fix the same for final hearing within a period of three months, while granting concession of suspension of sentence to petitioner No.1, Smt. Krishna Rana, however, sentence of petitioner No.2-Ranjit Rana was not suspended.

Learned counsel for the petitioner submits that in terms of separate custody certificates filed by way of affidavit dated 21.10.2015, petitioner No.2 namely Ranjit Rana has undergone his entire sentence rendering the present petition infructuous and the same may be disposed of as such qua him.

Ordered accordingly.

So far as petitioner No.1 namely-Krishna Rana is concerned, learned counsel for the petitioner submits that he does not intend to press this petition on merits. He further submits that let the conviction of the petitioner be upheld and the present criminal revision petition may be considered only for the purpose of reduction of sentence.

Highlighting other mitigating circumstances in favour of the petitioner, learned counsel for the petitioner submits that petitioner is not a previous convict. She is an old lady who was aged about 60 years in the year 2013, thus, she is more than 62 years of age as on date. She is a senior citizen. She has already undergone half of the sentence awarded to her. Learned counsel for the petitioner prays for reduction of sentence to the period already undergone by the

petitioner.

Per contra, learned counsel for the State submits that learned courts below have already shown sufficient leniency to the petitioner, while awarding sentence on lower side. In such a situation, there was hardly any scope for further reduction in the sentence. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, it is just and expedient to reduce the sentence of the petitioner to the period already undergone by her, while upholding her conviction. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record that petitioner is not a previous convict. She has been facing the agony of criminal trial for the last more than 13 long years. She is a senior citizen. There was no allegation against the petitioner in the impugned FIR. Further, in terms of the custody certificate dated 4.11.2015, she has already undergone the sentence for a period of 6 months and 20 days, including the period of remission, out of total sentence awarded to her for a period of 1 year RI. Having said that, this Court feels no hesitation to conclude that it would be in the fitness of things, if the sentence of the petitioner is ordered to be reduced to the period already undergone by her, as it will squarely meet the ends of justice.

The view taken by this Court also finds support from the

judgments of the Hon'ble Supreme Court in the case of **R. Soundarajan v. Seed Inspector, Coimbatore and another, 2006(4) R.C.R. (Criminal) 645; Umrao Singh v. State of Haryana, 1981 AIR (SC) 1723; Gulab Das and others Vs. State of M.P., 2012 (1) RCR (criminal) 220; S. Mahaboob Basha Vs. State of Karnataka, 2014 (4) RCR (criminal) 769; Vinay and others Vs. State of Karanataka and another, 2015 (2) RCR (criminal) 831; Nanda Gopalan Vs. State of Kerala, 2015 (2) RCR (criminal) 861 and Ravinder Singh Vs. State of Haryana and others, 2015 (3) RCR (criminal) 698,**

The relevant observations made by the Hon'ble Supreme Court in R. Soundarajan's case (supra), which can be gainfully followed in the present case, read 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.”

Similarly, in Umrao Singh's case (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.

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.

The appeal is disposed of accordingly.”

Reverting back to the facts and circumstances of the

case noted above and respectfully following the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, it is unhesitatingly held that ends of justice would be squarely met if the conviction of petitioner No.1 namely Krishna Rana is upheld and her sentence is ordered to be reduced to the period already undergone by her.

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 present petition deserves to be accepted to the extent indicated hereinabove.

Consequently, conviction of petitioner No. 1 is upheld, however, her sentence is ordered to be reduced to the period already undergone by her.

Resultantly, with the modification in the sentence, as indicated above, the instant criminal revision petition is disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

4.11.2015
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