

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

**CRR-1086-2015 (O&M)
Date of decision: 08.07.2015**

Harbans Lal alias Bansa

..... Petitioner

Versus

State of Punjab

..... Respondent

And

**CRR-1030-2015 (O&M)
Date of decision: 08.07.2015**

Amar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether reporters of the 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 ?

Present: Mr. Jagjit Singh, Advocate
for the petitioner in CRR No.1086 of 2015.

Ms. Sukhpreet Kaur, Advocate
for the petitioner in CRR No.1030 of 2015.

Mr.Jashanpreet Singh, AAG, Punjab.

DARSHAN SINGH, J.

This order shall dispose of both the revisions petitions mentioned above which have arisen out of the same case.

2. Both the petitioners along with their co-accused Jasbir alias Happy were held guilty and convicted for the offences punishable under Section 420 of the Indian Penal Code, 1860 (here-in-after called the 'IPC') by the learned Judicial Magistrate First Class, Kapurthala and they were sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- each, in default of payment of fine, to further undergo rigorous imprisonment for a period of two months. The petitioners preferred the appeal against the conviction, which was dismissed by the learned Additional Sessions Judge, Kapurthala vide impugned judgment dated 28.11.2014 but the sentence awarded to the petitioners was reduced from two years to one and a half year.

3. In nutshell, the prosecution allegations are that complainant Kulwant Singh moved a complaint dated 11.05.2006 to the Senior Superintendent of Police Kapurthala, alleging therein that the petitioners and their co-accused Happy were the travel agents. Petitioner Amar Singh was residing at Dubai. They fraudulently received a sum of Rs.4,50,000/- from the complainant on the pretext of sending him to Italy. The complainant was sent to Dubai, where petitioner Amar Singh was residing. After one month, the complainant was returned back to India. The accused failed to send him to Italy. Even the money paid by the

complainant was not returned.

4. At the stage of admission of the revision petitions, learned counsel for the petitioners stated that the revision petitions are only pressed qua the quantum of sentence and the conviction was not challenged. So, the present revision petitions have been admitted only qua the quantum of sentence.

5. Initiating the arguments, learned counsel for the petitioners contended that there is absolutely no material to establish that the petitioners were the travel agents. They contended that both the petitioners are not the previous convicts. They are not involved in any other criminal case. They have faced the agony of this litigation for a period of nine years. They are the old persons and have also undergone the substantial portion of their sentence. Thus, they pleaded that they should be awarded the sentence already undergone by them.

6. On the other hand, learned State counsel pleaded that the petitioners have fraudulently obtained Rs.4,50,000/- from the complainant on the pretext of sending him Italy. So, the sentence awarded by the Court below is just and appropriate.

7. The aforesaid contentions have been duly considered.

8. Firstly, I take up the case of revisionist Amar Singh. Ms. Sukhpreet Kaur, Advocate, learned counsel for the petitioner has placed on file the copy of passport of petitioner, which shows the date of birth of petitioner Amar Singh as 14.01.1946. In this manner, the age of the petitioner as on today is 69 years and a half. Thus, he is an old man.

There are also no direct allegation against petitioner Amar Singh that he had received the money from the complainant as admittedly at that time he was residing in Dubai. The allegations against him are only of conspiracy.

9. Mr. Jagjeet Singh, Advocate, learned counsel for petitioner Harbans alias Bansa has placed on record the copy of Adhar Card of petitioner, which shows that his year of birth to be 1941. In this manner, his age comes to be 74 years. Thus, he is also an old man.

10. There is no material on record to show that any other criminal case with respect to these activities were ever registered against the petitioners. There is also no record of their previous conviction. So, they are the first offenders. They are also old persons and had faced the protracted agony of litigation for about nine years. They have also undergone the substantial portion of their sentence. As per the custody certificate brought on record, petitioner Amar Singh had undergone the actual sentence of 08 months and 11 days as on 4th May 2015 i.e. 10 months and 15 days on today. As per the custody certificate, petitioner Harbans Lal alias Bansa has already undergone 10 months and 25 days of actual sentence as on 4th May 2015 i.e. 01 year and 29 days as on today.

11. Petitioner Harbans Lal alias Bansa has already undergone more than one year of sentence. So, the sentence already undergone by him will suffice the ends of justice. The sentence awarded to petitioner Amar Singh deserves to be further reduced from rigorous imprisonment of one and a half year awarded by the learned Appellate Court.

12. Thus, keeping in view my aforesaid discussion, the present revision petitions are hereby partly allowed. The order on the quantum of sentence stands modified.

13. In CRR No.1030 of 2015, the sentence of petitioner Amar Singh is hereby reduced to the imprisonment for a period of one year.

14. In CRR No.1086 of 2015, as petitioner Harbans Lal alias Bansa has already undergone the actual sentence for one year and about one month, so, he is sentenced to the imprisonment already undergone by him.

15. However, the sentence of fine and the default clause will remain intact.

Dated: 08.07.2015
sunil yadav

(DARSHAN SINGH)
JUDGE