

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

CRM-17326-2015 in/and
CRR-1888 of 2015 (O&M)
Date of decision: 08.09.2015

Ram Pal @ Gora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

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

Mr. Luvinder Sofat, AAG, Haryana
for the State.

Jitendra Chauhan, J.

CRM-17326-2015

This is an application for suspension of sentence of the petitioner. The learned counsel for the petitioner contends that the petitioner has already undergone 08 months and 27 days, out of substantive sentence of one year, therefore, the main petition may be disposed of today itself.

The learned State counsel pleads no objection to the assertion raised by the counsel opposite.

Heard. Prayer Allowed. The main revision petition is taken on today's Board of this Court.

CRR-1888-2015

By filing the present criminal revision, the petitioner has assailed the judgment dated 06.05.2015, vide which, the learned Addl. Sessions Judge, Kapurthala, by reducing the sentence of the petitioner, upheld the judgment dated 01.02.2013, passed by the learned Chief Judicial Magistrate, Kapurthala, whereby, the petitioner was convicted under Section 420 of the Indian Penal Code (for short 'IPC') and sentenced to undergo RI for a period of two years and to pay fine of Rs. 5000/- and in default of payment of fine, to further undergo RI for 15 days.

The prosecution case against the petitioner is that he duped an amount of Rs. 4 lacs from the complainant Karnail Singh on the pretext that he will send the complainant to America. Initially, the complainant paid Rs.3 lacs to the petitioner in the presence of Sampuran Singh, resident of village Alikhela, Jalandhar and the remaining amount of Rs.4 lacs was paid on the pretext that a visa has been obtained by the petitioner. Out of total Rs.7 lacs, the petitioner had returned Rs. 3 lacs but failed to repay the amount of Rs.4 lacs.

On commitment, the accused/petitioner was charged sheeted under Section 406/420 IPC as well as under Section 24 of the Immigration Act, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Karnail Singh, complainant; PW-2 SI Rattan Singh, PW-3 Noni Lal Singh, PW-4 Ajaib Singh, PW-5 Sampuran Singh, PW-6 Inspector

Surinder Pal and PW-7 Harnek Singh Bal.

The statements of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication. In defence, the petitioner examined DW1 Satnam Singh, DW-2 Dalwinder Singh, DW3 Amrik Singh and DW4 Kashmir Singh and thereafter he closed his defence evidence.

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 19.08.2015.

The learned counsel for the petitioner does not press the revision petition on merits and has submitted that the petitioner is the sole bread winner of his family. He is a poor barber and is suffering from various ailments. The petitioner has never misused the concession of bail during the trial. He is a first offender and has already undergone 08 months and 27 days out of substantive sentence of one year. 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. There is no flaw in the unassailed judgment of conviction. There is no merit in this present revision petition which is dismissed on merits.

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 08 months and 27 days, 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 ₹10,000/-. He shall be released forthwith on deposit of fine. In default of payment of enhanced fine, the petitioner shall further undergo RI for one month. With the above modification/reduction in the sentence, the present revision petition fails on merit and is dismissed.

08.09.2015

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(JITENDRA CHAUHAN)
JUDGE