

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2824 of 2015 (O&M)
Date of decision: 16.11.2015

Harbhajan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab.

SABINA, J.

Petitioner had faced the trial qua commission of offence punishable under Section 420, 408 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 14 dated 26.1.2009, registered at Police Station City Ferozepur. Trial Court vide judgment/order dated 3.5.2014 ordered the conviction and sentence of the petitioner under Section 420, 408 IPC. Aggrieved against the said judgment/order of his conviction and sentence, petitioner preferred an appeal and the same was dismissed by the Appellate Court vide order dated 14.7.2005. Hence, the present petition by the petitioner.

Prosecution story, in brief, is that petitioner was working as a milk vendor with the complainant *Gaushala*. Petitioner had misappropriated ₹ 34,422/- from January 2008 to September 2008 as he had taken money from the customers but had failed to deposit the same with the *Gaushala* after the sale of

milk. Petitioner had also taken ₹ 11,895/- from the complainant *Gaushala* by way of advance but had failed to return the said amount and had rather absented with effect from 3.10.2008. The detail of the amount which had not been deposited by the petitioner, as reproduced in para 2 of the judgment passed by the Appellate Court, is as under:-

Sr. No.	Account page No.	Name of the customer	Amount	Period
1.	48	Sh. Madan Lal	2541.00	04/2008 to 09/2008
2.	49	Sh. Jasbir Singh	495.00	09/2008
3.	52	Sh. Hawal Lal Mehta	459.00	09/2008
4.	54	Sh. Chander Mohan Handa	4149.00	05/2008 to 08/2008
5.	55	Sh. Raju	3070.00	04/2008 to 09/2008
6.	56	Sh. Ashok Sehgal	2585.00	06/2008 to 08/2008
7.	57	Sh. Subhash Chopra	4171.00	04/2008 to 09/2008
8.	59	Sh. Harvinder Singh	5432.00	01/2008 to 08/2008
9.	60	Sh. Manoj Kumar	2285.00	06/2008 to 09/2008
10.	61	Sh. Hari Ram Aggarwal	1134.00	09/2008
11.	62	Sh. Rajesh Kumar Julka	3287.00	04/2008 to 09/2008
12.	63	Sh. Vikas Chopra	272.00	04/2008
13.	64	Sh. Tirath Ram	1641.00	05/2008 to 06/2008
14.	65	Sh. Parveen Dhawan	486.00	09/2008
15.	66	Sh. Om Parkash	213.00	04/2008
16.	68	Sh. Sonu	1224.00	04/2008 to 07/2008
17.	69	Sh. Ashok Kumar	621.00	08/2008
18.	72	Sh. Sonu Wadhawa	357.00	04/2008 to 07/2008
		Total	34,422.00	

Learned counsel for the petitioner during the course of arguments has not challenged the conviction of the petitioner under Section 420, 408 IPC but has submitted that sentence qua imprisonment of the petitioner be reduced to the period already undergone by him.

Learned State counsel, on the other hand, has opposed the petition and has submitted that the petitioner had misappropriated funds of the complainant *Gaushala* and has failed to return the same till date.

In the present case, allegations levelled against the petitioner are serious in nature. As per the prosecution case, petitioner had taken money from the customers of *Gaushala* after supplying milk to them but had failed to deposit the said amount with the complainant *Gaushala*. In this regard, prosecution had examined customers as PW-1 to PW-7 and PW-10 to PW-12. The said customers had duly supported the prosecution case. Thus, prosecution had been successful in proving its case that the petitioner had misappropriated the funds belonging to the complainant *Gaushala*. Petitioner has failed to deposit the amount in question with the complainant *Gaushala*. In these circumstances, no ground for reduction of sentence qua imprisonment of the petitioner is made out.

Dismissed.

**(SABINA)
JUDGE**

November 16, 2015

Gurpreet