

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRR-2921-2014

Date of decision : 16.02.2015

Onkar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms.G.K.Mann, Advocate
for the petitioner.

Mr.Gazi Mohammad, DAG, Punjab.

Mr.Sunil Chadha, Senior Advocate
with Mr. Rahul Bhargav, Advocate
for the complainant.

REKHA MITTAL, J.

Through the present petition, the petitioner has assailed his conviction and sentence for offence punishable under Sections 120-B, 467, 468 of the Indian Penal Code (in short 'IPC').

On September 16, 2014, notice of motion was issued only quantum of sentence.

Counsel for the petitioner contends that Satwant Kaur who allegedly impersonated for complainant Manmohan Kaur for execution of the alleged forged sale deed dated 12.07.1999 has been released on probation. Harpal Singh, Balkar Singh and Avtar Singh, brothers of the petitioner and beneficiaries along with the petitioner under the aforesaid sale deed have been acquitted of the offence by the Court of Additional

Sessions Judge, Amritsar. The petitioner has suffered torment of criminal proceedings for the past more than 13 years and actual custody for a period of more than 8 months. It is prayed that substantive sentence awarded to the petitioner for offence under Sections 120-B, 467 and 468 IPC, ordered to run concurrently may be reduced to the period already undergone.

Counsel for the State and Sh.Sunil Chadha, Senior Advocate for the complainant have opposed the prayer for reduction of sentence with the submissions that in view of gravity of offence proved the petitioner does not deserve indulgence of this Court. It is further argued that another revision petition has been preferred by the complainant to assail the judgment of the appellate Court holding in favour of co-accused namely Harpal Singh, Balkar Singh and Avtar Singh and allowing benefit of probation to Smt. Satwant Kaur and in the said case, notice of motion has been issued. According to counsel, the petitioner cannot gain any advantage to his contention from the order passed in favour of his co-accused as the findings recorded by the appellate Court in this regard have not attained finality rather sub judice.

I have heard counsel for the parties and perused the records.

Manmohan Kaur complainant is the sister of Sohan Singh father of the present petitioner and his co accused namely Harpal Singh, Balkar Singh and Avtar Singh whereas Satwant Kaur is the wife of Sohan Singh. The criminal proceedings were lodged with registration of FIR No.194 dated 02.07.2002 in Police Station Civil Lines, Amritsar. The trial against the accused culminated in the judgment of conviction passed by the Chief Judicial Magistrate on 18.07.2013. In the joint appeal preferred by all

the convicts, the appeal filed by Harpal Singh, Balkar Singh and Avtar Singh was accepted in totality and the appeal of Satwant Kaur was partly allowed by setting aside the order of sentence and extending her benefit of probation. However, the appeal preferred by the present petitioner was dismissed and as a consequence, his conviction and sentence by the trial Court was affirmed.

The petitioner has suffered trauma of criminal proceedings for the past about 13 years. There is nothing on record suggestive of the fact that the petitioner ever created any impediment in administration of criminal justice or delay in disposal of trial proceedings is attributable to him. There is no other criminal case registered much less pending against the petitioner. The petitioner suffered custody for a period of 2 months after registration of FIR and he is behind the bars since his appeal was disposed of by the appellate Court on 14.08.2014. There is civil litigation pending between the parties in regard to the sale in question.

Keeping in view cumulative effect of facts and circumstances discussed hereinbefore, I am of the considered opinion that ends of justice would be served if sentence awarded to the petitioner for offence punishable under Sections 120-B, 467 IPC is reduced to rigorous imprisonment for a period of 2 years.

For the reasons aforesaid, the petition is disposed of with modification in the aforesaid terms.

(REKHA MITTAL)
JUDGE

February 16, 2015.
DK