

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

**Criminal Revision No.3187 of 2015(O&M)
Date of Decision: December 01, 2015**

Pargat Singh & Ors.

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

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

Mr.K.S.Pannu, DAG, Punjab.

Naresh Kumar Sanghi, J.(Oral)

Challenge in this criminal revision petition is to the judgment dated 22.07.2015 passed by learned Additional Sessions Judge, Moga, whereby the appeal filed by the petitioners challenging their conviction and sentence for the offences punishable under Sections 148, 342, 392, 411 and 506 read with Section 149, IPC, recorded by learned Chief Judicial Magistrate, Moga, was dismissed.

When the present petition came up for preliminary hearing before this Court on 28.08.2015, at that time learned counsel for the petitioners confined his prayer with regard to quantum of sentence only. Since he did not contest the conviction of the petitioners, therefore, notice of motion was issued for

consideration of sentence only.

Mr.K.S.Pannu, DAG, Punjab, has appeared for the respondent-State and produced the affidavits of the Superintendent, Central-cum-District Jail, Faridkot, to show the period of incarceration suffered by each petitioner which are taken on record.

Though learned counsel for the petitioners has opted not to contest the conviction of the petitioners but to satisfy the conscience of this Court, the material available on record has been re-scanned with the assistance of learned counsel for both the parties.

Brief facts of the case are that on 07.02.2003 Bholla Singh (PW-1) reported to ASI Chamkaur Singh (PW6) that he was a driver on the truck bearing registration No.PBX-7344 owned by Gurcharan Singh. Aroora was a conductor with him. On 05.02.2003, 350 bags of wheat were loaded on the above-said truck from godown owned by PUNSUP at Makhu District Ferozepur for carrying to Ludhiana. At about 10:30 p.m when the said truck had crossed village Peer Mohammad and had reached near village Janer then one empty truck crossed the truck being driven by Bhola Singh. The driver of the empty truck forced the informant to stop truck bearing Registration No.PBX-7344. The petitioners armed with *kirpans* alighted from the empty truck and forcibly entered into the truck being driven by informant, Bhola

Singh, and forced the informant and the conductor to alight from their truck and took them to a nearby field and confined them in a room meant for maintaining the electric motor for running a pump. The petitioners carried away the truck loaded with the wheat which was being driven by the informant. The informant and the conductor remained confined in the room throughout the night. In the morning, they broke open the doors and went to inform the owner of the truck at Makhu. On the said information, FIR No.13 dated 07.02.2003 for the offences punishable under Sections 148, 342, 392, 411 and 506 read with Section 149, IPC, was registered at Police Station, Kot-ise-Khan. During investigation of the different cases, the petitioners, Pargat Singh and Satnam Singh disclosed regarding the commission of the offences of the present case. They also disclosed that a few other persons were also with them. They got recovered the truck bearing Registration No.PBX-7344 and 290 bags containing wheat. All the articles were taken into possession by the police. Few accused could not be arrested, therefore, the charge-sheet (*challan*) was presented for prosecution of the petitioners who were later charge-sheeted for the offences punishable under Sections 148, 342, 392, 411 and 506 read with Section 149, IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined the following witnesses:-

PW-1 Bhola Singh, informant.

PW-2 Aroor Singh, eyewitness.

PW-3 Shashi Kant Jain, partner of M/s Mittal Trading Company, Kurukshetra.

PW-4 Hoshiar Singh , Gate Keeper, FCI, Makhu.

PW-5, Ramnik Singh Sodhi, Advocate.

PW-6 ASI Chamkaur Singh, who partly investigated the case.

PW-7 SI Balkar Singh

PW-8 Inderjit Kumar Passi, Manager, FCI,

The statements of the petitioners, in terms of Section 313, Cr.P.C., were recorded. They denied the incriminating evidence emerging against them and pleaded innocence.

No evidence in defence was led by the petitioners.

After hearing learned counsel for the parties and appreciating the material available on record, learned trial Court held all the petitioners guilty for the offences punishable under Sections 148, 342, 392, 411 and 506 read with Section 149, and awarded the following sentences:-

Convict	Offences	Sentence (RI)	Fine (₹)	In default (RI)
Pargat Singh	148 IPC	One year	250/-	Two months
	342, IPC	Six months	200/-	One month
	392/149, IPC	Three years	500/-	Six months
	411, IPC	One year	250/-	Two months
	506/149, IPC	Six months	200/-	One month
Satnam Singh	148, IPC	One year	250/-	Two months
	342, IPC	Six months	200/-	One month
	392/149, IPC	Three years	500/-	Six months
	411, IPC	One year	250/-	Two months

	506/149, IPC	Six months	200/-	One month
Raj Singh	148, IPC	One year	250/-	Two months
	342, IPC	Six months	200/-	One month
	392/149, IPC	Three years	500/-	Six months
	506/149, IPC	Six months	200/-	One month

All the substantive sentences were to run concurrently.

Dissatisfied with the judgment of conviction and order of sentence, the petitioners presented an appeal before learned Additional Sessions Judge, Moga, and the same was dismissed.

Still dissatisfied with the judgments of both the Courts below, the present petition has been presented.

The material available on record would clearly spell out that the petitioners had committed the offences punishable under Sections 148, 342, 392, 411 and 506 read with Section 149, IPC, for which they have rightly been held guilty by both the Courts below. In view of the findings recorded by learned trial Court and affirmed by learned Additional Sessions Judge, Moga, learned counsel for the petitioners has correctly opted not to challenge their conviction.

There appears to be substance in his arguments that sentence awarded under Section 392 read with Section 149, IPC, is on higher side. Learned counsel has pointed out that none of the petitioners is a previous convict; all of them are first offenders; they all belong to Punjab; they all have families to maintain; they are behind the bars for last several months and during their incarceration they are in process of improving themselves and that

the jail remissions granted to them would lend support to his arguments that the petitioners are maintaining good behaviour in the jail.

Learned counsel for the State has not controverted the facts that the petitioners are the first offenders as per the affidavits of the Superintendent, Central-cum-District Jail, Faridkot, and that during their incarceration the petitioners have earned the jail remissions which would fortify the fact that they are improving themselves in the jail.

After hearing learned counsel for the parties, the substantive sentence of the petitioners for the offence punishable under Section 392 read with Section 149, IPC, is reduced to rigorous imprisonment for two years. However, the fine imposed and sentence passed in default for the said section will remain as it is. It is made clear that the substantive sentence and the order of fine for the remaining offences are maintained. All the sentences for all the offences shall run concurrently.

With the above modification in the order of sentence, the present criminal revision petition is partly allowed. The petitioners who are in jail be released after completing the sentence passed by this Court if not required in any other case.

December 01, 2015
seema

(Naresh Kumar Sanghi)
Judge

