

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3357-2014 (O&M)
Date of Decision: February 6, 2015

Jasvir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Rajeshwar Singh, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

NARESH KUMAR SANGHI, J (Oral)

1. Challenge in this criminal revision petition is to the judgment dated 23.8.2014, passed by learned Additional Sessions Judge, Hoshiarpur, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 409, IPC, recorded by learned Judicial Magistrate Ist Class, Hoshiarpur, was dismissed.

2. When the present criminal revision petition came up for preliminary hearing before this Court on 3.11.2014, at that time learned counsel for the petitioner submitted that he did not want to challenge the conviction of the petitioner in view of concurrent findings of both the Courts below, however, he

prayed for issuance of notice of motion for consideration of quantum of sentence only.

3. In pursuance to the notice issued, learned counsel for the State has put in appearance.

4. Learned counsel contends that the petitioner who was the acting Sarpanch of the Gram Panchayat, Village Haripur, District Hoshiarpur, has already suffered incarceration for more than six months out of the awarded sentence of two years for the offence punishable under Section 409, IPC; the petitioner is neither required nor involved in any other case; the occurrence is of 2007 and thereafter the petitioner was granted bail during trial and even during appeal he remained on bail, but did not misuse the said concession; the petitioner has already faced the agony of trial and appeal for approximately 8 years; the petitioner is ready to compensate the Gram Panchayat whose wheat was allegedly misappropriated by the petitioner; the petitioner was not extended the benefit of the shortcomings in the prosecution case on merits, but certainly those points can be considered for reducing the substantive sentence of the petitioner to the period already undergone by him; and that the petitioner is the sole bread winner for his family.

5. Learned counsel for the State has produced the

affidavit of the Superintendent, District Jail, Hoshiarpur, which shows the period of incarceration suffered by the petitioner, which is taken on record.

6. Perusal of the above affidavit reveals that the petitioner has suffered incarceration for 6 months and 1 day as on 5.2.2015; he is neither required nor involved in any other case; he has also earned remission for 25 days, which shows that the petitioner is improving himself during his incarceration; he was the acting Sarpanch of the village and, as such, a respectable person though he has been held guilty for the offence punishable under Section 409, IPC, for embezzlement of the wheat belonging to the Gram Panchayat; and that the petitioner has agreed to pay a sum of Rs. 1,00,000/- as compensation to the Gram Panchayat, Village Haripur, District Hoshiarpur.

7. Perusal of the judgments passed by both the Courts below would reveal that the conviction of the petitioner was well based and, as such, learned counsel for the petitioner has correctly opted not to challenge his (petitioner) conviction.

8. As a sequel to the above discussion, this criminal revision petition is partly allowed. The substantive sentence awarded to the petitioner for the offence punishable under Section 409, IPC, is reduced to the period already undergone by

him, whereas the amount of fine shall remain unaltered. The petitioner is directed to pay Rs. 1,00,000/- (Rs. one lac) as compensation to the Gram Panchayat, Village Haripur, District Hoshiarpur, as per the provisions contained in Section 357, Cr.P.C., within one month of passing of this order, which shall be disbursed to the said Gram Panchayat by the learned Trial Court after issuing notice in accordance with the settled norms.

9. In case the petitioner fails to deposit the above said amount of compensation within the stipulated period, then the petitioner shall suffer the sentence as awarded by the learned Trial Court.

10. The petitioner be set at liberty at once subject to above conditions, if not required to be in custody in any other case.

(NARESH KUMAR SANGHI)
JUDGE

February 6, 2015
Pkapoor