

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3436 of 2014 (O&M)
Date of Decision: February 16, 2015

Mithu Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.P.S.Tung, Advocate
 for the petitioner.

Mr.S.S.Chandumajra, Deputy Advocate General, Punjab
 for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against State of Haryana challenging the judgment dated 24.09.2014 passed by learned Addl. Sessions Judge, Bathinda, vide which the appeal against the judgment of conviction and order of sentence dated 20.04.2013 passed by learned Sub Divisional Judicial Magistrate, Talwandi Sabo, has been dismissed.

It is mainly stated in the petition that the judgment dated 24.09.2014 passed by learned Addl. Sessions Judge, Bathinda has been passed on conjectures and surmises and is liable to be set aside. It is also stated that present case was registered on the basis of orders of SSP, Bathinda, after having opinion of District Attorney, Bathinda on the letter dated 10.10.2005 of Deputy Commissioner,

Bathinda, to whom a letter dated 21.07.2005 was written by Smt.Surinder Kaur Kataria, District Education Officer, Bathinda. In the said letter, she had sought action against the accused for misusing the Sarv Sikhian Abhian (SSA) funds. It was alleged in the letter that accused have misused the SSA funds and as such misappropriated the same. It was brought to her notice by Block Research Person (BRP) Gian Chand and Vishal Garg that a grant of ₹35,000/- for civil work at Government School, Gehri Bara Singh was given to them and that grant was not correctly utilized. The latrine was constructed with only 3000 to 4000 bricks and entire sanitation work was completed. It is further alleged that head teacher of the school was not showing any record and many reminders were given to accused Surjit Singh to present the record but to no effect but Jagjit Singh contract basis Teacher brought into her notice that accused have not properly maintained the record. It is also alleged that he has manipulated the record. It is further alleged that on 14.06.2005, she inspected the school and found that accused have misused the funds after preparing false bills and prayer for taking action against accused Surjit Singh and Mithu Singh was made.

Learned SDJM, Talwandi Sabo vide judgment of conviction and order of sentence dated 20.04.2013 convicted and sentenced present petitioner Mithu Singh along with co-accused Surjit Singh to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹5000/- and in default of payment of fine, to undergo simple imprisonment for a period of fifteen days under Section 409 IPC and

to undergo rigorous imprisonment for a period of one year under Section 120-B IPC. An appeal was filed and learned Addl. Sessions Judge, Bathinda, dismissed the appeal but reduced the sentence from rigorous imprisonment of three years to one year under Section 409 IPC and from rigorous imprisonment of one year to six months under Section 120-B IPC. However, the sentence of fine and default sentence were upheld.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and contended only on the point of reduction of sentence and notice of motion was issued regarding quantum of sentence only.

Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

As per the custody certificate dated 08.12.2014, the petitioner has undergone two months and fourteen days of actual sentence and now the petitioner has undergone more than four months of actual sentence out of the total sentence. He has also earned remission of eight days.

The FIR in the present case has been registered in the year 2005. More than nine years have elapsed and the petitioner is suffering from the long protracted criminal proceedings. The petitioner is stated to be old person of 57 years. He is only bread earner of the

family and first offender.

Keeping in view the facts and circumstances of the present case, the sentence imposed upon the petitioner is reduced to already undergone. Petitioner Mithu Singh, who is in custody, be released forthwith if his custody is not required in connection with any other case.

Therefore, the present revision is partly allowed.

February 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE