

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.4075 of 2014

Date of Decision: July 03, 2015

Balraj Sharma son of Kirpa Ram SharmaPetitioner

Versus

State of PunjabRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

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

Mr.Nikhil K.Chopra, Deputy Advocate General, Punjab.

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TEJINDER SINGH DHINDSA, J.

The present revision petition is directed against the judgment dated 12.11.2014 passed by the learned Additional Sessions Judge, Ferozepur upholding the judgment of conviction and order of sentence dated 24.8.2011 of Additional Chief Judicial Magistrate, Ferozepur, convicting the petitioner for the offence under Section 408 of the Indian Penal Code and sentencing him to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹5,000/- and in default of payment of fine, to further undergo rigorous imprisonment of two months.

2. The process of law was set in motion on the complaint filed by District Manager, PUNSUP, Ferozepur on the allegations that the accused/present petitioner while employed as PDC at

PUNSUP Centre, Guru Harsahai was the sole Incharge of the wheat stock relating to the aforesaid Centre and there was a shortage of wheat amounting to 3734 quintals relating to crop years 1999-2000.

3. Accused was charged for the offence under Section 408 of the Indian Penal Code by the trial Court upon which he pleaded not guilty and claimed trial. Prosecution examined as many as twelve witnesses i.e. PW1 Om Parkash, Senior Assistant in the Office of District Manager, PNSUP, Ferozepur, PW2 Mohinder Singh Aliwal, District Manager, PUNSUP (Retired), PW3 OP Sharma, Assistant Manager, PUNSUP, Chandigarh, PW4 Abhay Kumar Chawla, Field Officer, PUNSUP Fazilka, PW5 Krishan Kumar, Auditor PUNSUP, PW6 Natha Ram, Senior Assistant, PW7 Parshotam Lal, Deputy Manager (Retired), PW8 Ijjat Lal Chowkidar PUNSUP, PW9 Naresh Kumar, PW10 Ajaib Singh PDC, PW11 Sub Inspector Gurmit Singh and PW12 Gamdoor Singh and thereafter closed the evidence.

4. Statement of the accused under Section 313 of the Code of Criminal Procedure was recorded and after giving him due opportunity to lead evidence, the trial Court convicted the petitioner for offence under Section 408 of the Indian Penal Code and sentenced him as afore-noticed. Judgment of conviction and order of sentence has been upheld by the learned Additional Sessions Judge, Ferozepur.

5. Having heard learned counsel for the parties and having gone through the records of the case, this Court is of the considered opinion that cogent and plausible evidence has been

brought on record by the prosecution and the learned Courts below have rightfully recorded the conviction of the petitioner.

6. There would be no scope for interference in the judgment of conviction in exercise of the revisional jurisdiction by this Court. Faced with such situation, learned counsel for the petitioner made a categorical assertion that he is not assailing the conviction on merits but would pray for a lenient view to be taken on the issue of quantum of sentence. This Court finds that there are sufficient mitigating circumstances as regards reduction of sentence is concerned. Criminal proceedings were initiated against the petitioner in the year 2001. He has faced the ordeal of criminal trial and thereafter appeal, over a period of almost 14 years. Right to speedy trial is a fundamental right of the accused which flows from Article 21 of the Constitution of India. If the Court is not able to assure the accused a speedy trial, it would be open for the Court to show him some consideration regarding sentence.

7. Furthermore, the petitioner has already been imposed the extreme penalty of dismissal from service on account of his conviction. As per custody certificate furnished by the learned State counsel, the petitioner has already undergone a total custody period of 8 months and 27 days as on 3.7.2015 out of the substantive sentence of three years rigorous imprisonment.

8. In the considered view of this Court, the conviction of the petitioner is liable to be upheld, but his sentence is ordered to be reduced to the period already undergone. Ordered accordingly.

9. Fine, if not already paid, be deposited and the petitioner thereafter be released forthwith.

10. Revision petition disposed of in the aforesaid terms.

July 03, 2015

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether to be referred to Reporter? (Yes/No)