

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.4097 of 2014 (O&M)

.....

Date of decision:13.1.2015

Sukhmander Singh and another

...Petitioners

v.

State of Punjab and another

Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vivek Goel, Advocate for the petitioners.

Mr. Gurinderjit Singh, Deputy Advocate General, Punjab
for the respondent-State.

Mr. Nitin Rampal, Advocate for respondent No.2.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 1.12.2014 passed by learned Sessions Judge, Sri Muktsar Sahib, vide which the appeal filed by the petitioners against the judgment of conviction and order of sentence dated 15.12.2011 passed by learned Sub Divisional Judicial Magistrate, Gidderbaha was dismissed with modification in sentence.

It is mainly stated in the revision petition that the impugned judgment dated 15.12.2011 passed by the learned Sub Divisional Judicial Magistrate, Gidderbaha, convicting the petitioners for the offences under

Sections 420, 465, 467 and 471 IPC and judgment dated 1.12.2014 passed by learned Sessions Judge, Sri Muktsar Sahib, whereby the appeal filed by the petitioners was dismissed, are erroneous in law as well as against the facts on the record.

Notice of motion has been issued in this case.

Mr. Gurinderjit Singh, learned Deputy Advocate General, Punjab has put in appearance on behalf of the respondent-State and Mr. Nitin Rampal, learned counsel has appeared on behalf of respondent No.2 and contested this petition.

I have heard learned counsel for the petitioners and learned Deputy Advocate General, Punjab appearing for the respondent-State as well as learned counsel for respondent No.2 and have gone through the record.

The brief facts of the prosecution case are that the FIR was registered on the application of Ravi Bansal-complainant against Gurjant Singh and Sukhmander Singh (petitioners) that in June 2003, above said accused came to his shop and stated that they knew that the complainant wanted to purchase agriculture land and accused No.1 is having land in Village Kotli Ablu. He was in need of money for his domestic use and wanted to sell his land. If the complainant wanted to purchase the land, then he could purchase the land from him. After some days, the above said accused came to his shop and at that time, Krishan Singh was also sitting along with him. The complainant was in need of land for his personal work and he talked regarding the sale of land and then asked that

if there was any dispute regarding that land or not or whether he had taken any loan on the said land. Then, both the accused assured him that they are owners of the land and there was no dispute regarding this land, but there was some loan from the Bank on the land, which the accused would clear before the sale of the land. The complainant became ready to purchase the land measuring 23 Kanals 12 Marlas at the rate of ₹1,80,000/- per acre and it was also settled that the agreement for sale was to be executed on 9.6.2003 and the earnest money of ₹2,40,000/- was also to be received on that day and the date of registration was fixed upto 31.8.2004 and the loan of the Bank was to be cleared before registration. On 9.6.2003, the complainant reached in the Court premises at Muktsar by carrying ₹2,40,000/- and both the accused were already present in the Court premises. After some time, Ravi Kalra and Vijay Sachdeva also came there on being called by accused persons. The complainant demanded the Jamabandi from Gurjant Singh, who produced the same from his pocket and then the agreement for sale was got typed. ₹2,40,000/- were handed over. After some time, the complainant came to know that accused No.2 had executed agreement of sale to some one else regarding the same land. It is also the case of the complainant that regarding the land vide which the agreement was executed of Khasra No.253/2 (8-0 Kanals) did not belong to accused No.1, but belonged Niranjana Singh.

The learned Sub Divisional Judicial Magistrate, Gidderbaha, convicted the petitioners for the offences under Sections 420, 465, 467

and 471 IPC and sentenced them to undergo rigorous imprisonment for two years each and to pay a fine of ₹2,000/- each and in default of payment of fine to further undergo simple imprisonment for two months each for the offences under Sections 420 and 467 IPC each. They have also been sentenced to undergo rigorous imprisonment for one year each and to pay a fine of ₹1,000/- each and in default of payment of fine to further undergo simple imprisonment each for the offences under Sections 465 and 471 IPC each. All the sentences have however, been ordered to run concurrently.

The learned Sessions Judge, Sri Muktsar Sahib vide impugned judgment dated 1.12.2014 on an appeal filed by the petitioners upheld the conviction of the accused-petitioners, however, reduced the sentence to six months each for the offences under Sections 420, 465, 467 and 471 IPC. However, the sentence of fine was maintained in the appeal.

At the time of arguments, learned counsel for the revision petitioners did not contest the concurrent findings of the Courts below regarding conviction and only prayed for reduction of sentence.

As per the custody certificate filed by Sukhmander Singh, he had already undergone three months and fifteen days of sentence out of the actual sentence, whereas the other revision petitioner is also in custody since the date of decision by the appellate Court i.e. 1.12.2014.

Keeping in view the facts and circumstances, of the present case and in view of the fact that mainly the dispute is personal in nature and civil remedy was also available to the complainant and in view of the

fact that the petitioners are facing the criminal proceedings for the last about 10 years, the sentence of the petitioners is liable to be reduced to already undergone. It is stated that the fine has already been paid by the petitioners.

With the above modification, the revision petition is partly allowed. The sentence imposed upon the petitioners is reduced to the sentence already undergone by them.

The petitioners be set at liberty forthwith, if their custody is not required in connection with any other case.

January 13, 2015.

(Inderjit Singh)
Judge

hsp