

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2414-2003
Date of Decision : September 08th, 2016

Mohinder Singh

Versus

.... Petitioner

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Puneet Inder Singh, Advocate,
for the petitioner.

Mr. Yogesh Kumar Gupta, AAG, Punjab,
for the respondent-State.

SHEKHER DHAWAN, J.

Present revision is directed against the judgment of conviction and order of sentence dated 05.08.2002 passed by learned Additional Chief Judicial Magistrate, Sangrur, whereby the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
Section 420 IPC	to undergo Rigorous Imprisonment for a period of 02 years and to pay a fine of Rs.2000/-	To further undergo RI for one month.

2. The appeal filed by the petitioner was dismissed by learned Additional Sessions Judge, Sangrur, vide judgment dated 20.11.2003.
3. Relevant facts for the purpose of decision of this petition; that petitioner set the process of law in motion in case bearing FIR No.17 dated 20.03.1998 and at the time of trial he had not supported the prosecution case and was declared hostile witness, on the basis of that, proceedings were

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initiated and petitioner was convicted for commission of offence under Section 420 IPC.

4. After completion of investigation proceedings, challan was presented in the Court for trial.

5. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused, recording of evidence of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution and the defence evidence on record, held the petitioner guilty and convicted him for commission of offence and sentenced him on 05.08.2002.

6. Aggrieved of passing of judgments of conviction and order of sentence, the petitioner is before this Court by way of present revision.

7. Learned counsel for the petitioner while arguing on the point of maintainability of the revision petition submitted that the present case is not squarely covered under Section 420 of Indian Penal Code. The basic ingredient of Section 420 IPC are not met with. More so, at the best the legal remedy available was to proceed further as per provisions of Section 344 of Code of Criminal Procedure so as to punish the petitioner for willfully giving false evidence or fabricated false evidence or in the alternative proceeding under Section 182 of IPC could be initiated. The sentence provided for commission of offence under Section 182 IPC is 6 months imprisonment and for proceeding under Section 344 of Code of Criminal procedure, sentence can extend to three months or to fine of Rs.500/- or both.

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8. However, the petitioner has already undergone the actual sentence of more than 5 months during investigation and trial of the case against the awarded sentence of 2 years rigorous imprisonment. So, the present petition be accepted and judgment of conviction and order of sentence dated 05.08.2002 and order passed in appeal be set aside.

9. Learned State counsel submitted that on the basis of material and evidence available on file the offence alleged against petitioner has been duly proved and both the Courts below have already appreciated the entire evidence and present petition is without any merit and same stands dismissed.

10. Taking the case from the admitted facts that the petitioner appeared as a witness and had not supported the prosecution case and turned hostile and subsequently he was convicted and sentenced under Section 420 IPC. Appellate Court also dismissed the appeal on the basis of available evidence. Petition against the judgment of conviction is without any merit because undisputedly the process of law was initiated as he has filed the complaint and received the amount of award. Later on he has not supported the prosecution case and during the trial he was declared hostile witness. Apart from that, petitioner has already undergone more than 5 months of the actual sentence against the awarded sentence.

11. In view of the above, the present revision petition against judgment of conviction is without any merit. However, as regard to the order of sentence, petitioner has already undergone the actual sentence of more than 5 months, against the awarded sentence of 2 years RI. The

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present revision petition is partly accepted to the extent that the judgment of conviction dated 05.08.2002 is upheld, but the order of sentence passed against the petitioner is modified and the sentence awarded to the petitioner is reduced to the one already undergone by him in custody.

12. Petition stands partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

September 08th, 2016
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Whether speaking/reasoned	:	Yes / No
Whether Reportable	:	Yes / No