

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-1051-2006

Date of decision: 5.2.2016

Malwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Anil Chaudhary, Advocate for the petitioner

Mrs.Lavanya Paul, Assistant Advocate General, Punjab

SNEH PRASHAR, J.

The instant criminal revision petition was filed by the petitioner challenging judgment dated 13.5.2006 passed by learned Additional Sessions Judge, Sangrur whereby the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 14.2.2005 passed by learned Additional Chief Judicial Magistrate, Sangrur convicting and sentencing him to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1000/- and in default of payment of fine to further undergo RI for three months under Section 409 of the Indian Penal Code, was dismissed with modification in the order of sentence to reduce the sentence from two years to one year with no change in fine clause.

The facts in brief are that Punjab Backward Classes Land Development and Finance Corporation (hereinafter referred to be 'the complainant-Corporation') gave a complaint to Senior Superintendent of Police, Sangrur against Malwinder Singh (petitioner), wherein it was averred that the complainant Corporation was to provide loan on lesser interest rate to the poor people to improve their standard. Malwinder Singh, who was the Regional Assistant, had collected Rs.8500/- from the lonees and issued receipts and without information to the complainant-Corporation, he retained the said amount for a long period and thus, committed embezzlement of the money of the Corporation. On the basis of the report Ex.P6/A of Deputy District Attorney (Legal), First Information Report No.65 dated 17.3.1999 under Section 409 IPC was registered at Police Station Kotwali, Sangrur against the petitioner. On completion of investigation, final report under Section 173 of the Code of Criminal Procedure was presented in the Court.

Accused petitioner was charge-sheeted under Section 409 IPC to which, he pleaded not guilty and claimed trial.

To substantiate its allegations, prosecution examined PW1 Karamjit Singh, District Field Officer, Sangrur, PW2 ASI Pritam Singh, PW3 ASI Labh Singh, PW4 Sarup Dass, PW5

Kushbaz Singh, PW6 Daljit Kaur, PW7 Sadiq Mohd, PW8 Gulshan Kaur, PW9 Paramjit Singh, PW10 Ravi Kumar, PW11 S.S. Sharma, PW12 Sohan Lal, PW13 Manjit Singh and PW14 Inspector Davinder Singh. After closure of evidence of the prosecution, statement of the accused- petitioner as envisaged under Section 313 Cr.P.C. was recorded. The incriminating evidence put to him was denied and he pleaded false implication.

Analysing the evidence led by the parties and considering the submissions made by learned Assistant Public Prosecutor for the State and learned counsel representing the petitioner, learned trial Court convicted and sentenced the petitioner as noticed above. Being aggrieved by the judgment of conviction and order of sentence passed by learned trial Court, the petitioner had preferred an appeal, which was dismissed by learned Additional Sessions Judge, Sangrur vide judgment dated 13.5.2006, but the order of sentence was modified by reducing the sentence from two years to one year with no change in fine clause.

Still being dissatisfied, the present criminal revision petition has been filed.

The submissions made by learned counsel for the parties have been heard and record perused.

As the matter was opened for arguments, learned

counsel for the petitioner submitted that he does not opt to challenge the concurrent finding regarding conviction of the petitioner, recorded by learned trial court and affirmed by learned first appellate Court and restricts his prayer to reduce the sentence to the period already undergone by the petitioner. He submitted that the petitioner had deposited the amount retained by him alongwith interest after three months of entrustment to him. He had no intention to misappropriate the amount. His services were terminated and he is now in old age. He has young children. One daughter has already been married and the marriage of second is fixed in March this year. He never misused the concession of bail granted to him during the pendency of the revision.

Indeed, perusal of the record indicates that the petitioner received a sum of Rs.8500/- from different persons/ borrowers, which he was supposed to deposit in the account of the complainant -Corporation by next day, but he retained the amount without intimation/ permission of the competent authority for three months. The amount of Rs.8500/- was entrusted to him on 15.11.1995/ 18.11.1995 and was deposited by him on 26.2.1996 and it was on 17.3.1999 that on a complaint given by the complainant -Corporation that the instant case was registered against the petitioner. Though the amount alongwith interest was

deposited approximately three and half years even before the fault on his part was detected but the fact remains that there was temporary embezzlement of the money of the complainant -Corporation by the petitioner. Resultantly, the conviction is maintained.

However, the prayer has been made on behalf of the petitioner for reducing his sentence to the period already undergone by him. He lost the job for the offence of temporary embezzlement committed by him, even when the amount involved was only Rs.8500/-. Nine years have passed since he was convicted and sentenced. By now he must have entered middle age of his life. As submitted by his counsel, marriage of one of his daughter is fixed to be solemnized in March, 2016. He has been facing a protracted trial since 1999, i.e. for the last almost sixteen years. He has already undergone 30 days of imprisonment. Thus, considering the said facts and circumstances, the sentence of the petitioner is reduced to the period already undergone by him.

The revision petition is disposed of accordingly.

5.2.2016
gsv

(SNEH PRASHAR)
JUDGE