

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

Criminal Revision 1191 of 2006

Date of Decision : October 27, 2016

Karan Singh and others	Versus	Petitioners
State of Haryana and another		 Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. R.S. Mamli, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana
for respondent No.1-State.

T.P.S.MANN, J. (Oral)

The petitioners along with their brother Balkar Singh was tried on a criminal complaint instituted by respondent No. 2-Mam Chand for facing charge for the offences punishable under Sections 420/467/471/403/406/34 IPC. Vide judgment and order dated 30/31.1.2003, learned Judicial Magistrate 1st Class, Kaithal, convicted them for the aforementioned offences and sentenced them as below:-

- (i) Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each under Section 467 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for one month;
- (ii) Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each under Section 471 read with Section 34 IPC

and in default of payment of fine, to further undergo rigorous imprisonment for one month;

- (iii) Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each under Section 420 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for one month;
- (iv) Rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each under Section 403 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days; and
- (v) Rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each under Section 406 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days.

All the substantive sentences were ordered to run concurrently. The fine imposed was deposited by all the five convicts there and then.

The judgment of conviction and sentence passed by the trial Court was challenged by the petitioners and their co-convict Balkar Singh by way of appeal. During its pendency, convict Balkar Singh died. Vide judgment dated 24.5.2006, the learned Additional Sessions Judge, Kaithal upheld the conviction and sentence of the

petitioners.

Still not satisfied, the petitioners preferred the present revision, which was admitted on 31.8.2006. Their sentences were also suspended and they were ordered to be released on bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Kaithal.

According to the prosecution, complainant Mam Chand along with the petitioners and Balkar Singh purchased a new tractor from M/s Inder Tractors Kaithal for a consideration of Rs.1,04,230/- and a loan of Rs.1,00,000/- was financed by the Central Bank of India, Pundri, for purchase of the tractor in the name of the complainant and the accused. The complainant was joint owner of half share with the accused. However, the accused sold away the tractor to a person belonging to Uttar Pradesh without the consent of the complainant. The entire proceeds were received by the accused from the purchaser and dishonestly misappropriated by them for their own use.

Learned counsel for the petitioners submits that he does not challenge the conviction of the petitioners, as ordered by the learned Courts below. He, however, submits that the occurrence relates to a period of about four years before 12.3.1988, when complainant Mam Chand had submitted complaint against the petitioners. In the said complaint, the petitioners were summoned on 11.10.1995. Ever since then, they are facing the agony of criminal

prosecution. It is also submitted that the petitioners are sole bread winners of their respective families as there is none in their families, who could look-after them. It is also submitted that the petitioners are on bail for the last about ten years. They have already undergone a period of about more than four months out of the sentence of three years imposed upon them. None of them is involved in any other case. Prayer has, accordingly, been made for setting aside their remaining substantive sentences of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that sentences of imprisonment imposed upon the petitioners are commensurate with the crime committed by them.

As per the custody certificates already brought on record by the learned State counsel, Karan Singh petitioner had undergone one month and one day in jail; Nafe Singh had undergone fifteen days; Ram Pal had undergone twenty nine days whereas Sube Singh had undergone thirteen days during the trial of the case. Further, after the disposal of their appeal by the learned lower appellate Court on 24.5.2006, all the petitioners were taken into custody and it was only on 31.8.2006 that a co-ordinate Bench of this Court has suspended their sentences of imprisonment. Therefore, as of date, each of the petitioners has undergone a period of about four months.

Taking into consideration the totality of the circumstances,

this Court is of the view that no useful purpose will be served by sending the petitioners behind the bars, one again, for undergoing their remaining substantive sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine imposed upon them for the offences under Section 471 read with Section 34 IPC, Section 420 read with Section 34 IPC, Section 403 read with Section 34 IPC and Section 406 read with Section 34 IPC do not call for any interference. At the same time, the fine of Rs.1,000/- imposed upon each of them for the offence under Section 467 read with Section 34 IPC can be enhanced so as to compensate the complainant.

As per the photocopy of the certificate dated 10.10.2016 issued by Shri Sewak Sabha, Karnal, complainant Mam Chand expired on 4.7.2014. Learned counsel for the petitioner has informed the Court that complainant Mam Chand is survived by his daughter Reshma Devi widow of Shamsheer Singh, who is presently residing at Dayalpura, Mohalla Dakka Basti Colony Karnal, District Karnal.

Resultantly, the conviction of the petitioners for the various offences is upheld. Their substantive sentences of imprisonment on all the counts shall stand reduced to the one already undergone by them. The fine imposed for the offences under Sections 471 read with

Section 34 IPC, Section 420 read with Section 34 IPC, Section 403 read with Section 34 IPC and Section 406 read with Section 34 IPC, alongwith their default clauses are maintained. However, the fine of Rs.1,000/- imposed upon each of them for the offence under Section 467 read with Section 34 IPC is hereby enhanced to Rs.11,000/-. The enhanced amount of fine be deposited by each of the petitioners with the trial Court within three months from today, failing which, they shall be required to undergo simple imprisonment for three months. The enhanced amount of fine, when deposited, be disbursed in favour of aforesaid Reshma Devi, as compensation.

The revision is, accordingly, disposed of.

October 27, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No