

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

Criminal Revision 1255 of 2008

Date of Decision : December 14, 2016

Sumer Chand	Versus	Petitioner
State of Haryana		 Respondent

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

Present : Mr. H.S.Gill, Senior Advocate, with
Mr. Nitin Rampal, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

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

The petitioner was tried for committing the offence punishable under Section 409 IPC on the allegations that during his tenure as Sarpanch of village Duliani, he had embezzled huge sum of money to the tune of Rs.4,41,877/-. After going through the evidence, the learned trial Court came to the conclusion that the petitioner had embezzled an amount of Rs.84,000/- only and, accordingly, after convicting him for the offence under Section 419 IPC, sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo simple imprisonment for four months. The amount of fine imposed was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the

same came to be dismissed by the learned lower appellate Court. Still not satisfied, he filed present revision, which was admitted on 2.9.2008 and his sentence of imprisonment was also suspended.

Learned counsel for the petitioner does not challenge the impugned judgment passed by the learned Courts below to the extent of convicting him for the offence under Section 409 IPC. It is, however, submitted that the petitioner is facing the agony of criminal prosecution for the last more than twenty one years. He is about 65 years of age at present. He is a heart patient and can walk only with support. He is not a previous convict. Out of the sentence of three years imposed upon him, he has already undergone a period of more than two months. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner had embezzled huge sum of money belonging to the Gram Panchayat and, therefore, the sentence of imprisonment imposed upon him is commensurate with the crime, which he has committed.

As per the custody certificate dated 26.12.2015, the petitioner has undergone an actual sentence of two months and eight days. He is not shown to be convicted in any other criminal case, though there are four more cases against him but he is on bail in all those cases.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if the same is reduced to the one already undergone by him. At the same time, the fine imposed upon him can be suitably enhanced.

Resultantly, the conviction of the petitioner under Section 409 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.5,000/- is enhanced to Rs.84,000/-, which was the actual amount embezzled by him. As he has already deposited the fine of Rs.5,000/- imposed by the trial Court, he shall deposit the enhanced amount of fine, i.e. Rs.79,000/- with the trial Court within three months from today, failing which, he shall undergo simple imprisonment for six months. In the event of the petitioner depositing the enhanced amount of fine, the entire amount of fine, i.e. Rs.84,000/- be got deposited in the account of the Gram Panchayat of village Duliani, Police Station Pundri, District Kaithal.

The revision is, accordingly, disposed of.

(T.P.S. MANN)
JUDGE

December 14, 2016
amit rana

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No