

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

Criminal Revision 1259 of 2008

Date of Decision : October 26, 2016

Laxmi Chand

.....Petitioner

Versus

State of Haryana

.... Respondent

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

Present : Mr. P.R.Yadav, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

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

The petitioner was tried for committing an offence punishable under Section 409 IPC with the allegations that while being posted as Post Master, Additional Departmental Branch, Ramgarh, he embezzled Government money to the tune of Rs.72,789/-. Vide judgment and order dated 5.9.2006, learned Additional Chief Judicial Magistrate, Rewari, convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by the learned Additional Sessions Judge, Rewari, vide judgment dated 9.7.2008. Still not satisfied,

he filed the present revision, which was admitted on 5.8.2008. The sentence imposed upon him was also suspended.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offence under Section 409 IPC. He, however, submits that the petitioner is facing the agony of criminal prosecution for the last more than nineteen years. Before joining the service in the Postal Department, he was in the army, which he served for a period of more than twelve years. It is also submitted that presently, he is more than seventy three years of age. He is not a previous offender. His son has already died leaving behind three children and it is the petitioner, who is looking after them. It is also submitted that though the prosecution had alleged an embezzlement of Rs.72,789/-, yet the trial Court after going through the evidence came to the conclusion that he had embezzled an amount of Rs.2,100/- only. It is also submitted that the petitioner has already undergone an actual sentence of more than one month. Prayer has, accordingly, been made for setting-aside his remaining substantive sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that as the petitioner had committed embezzlement of Government funds, he committed the offence under Section 409 IPC and the sentence awarded to him is commensurate with the crime committed.

As per the custody certificate already brought on record by

the learned State counsel, the petitioner has undergone an actual sentence of one month and one day.

After hearing learned counsel for the parties and keeping in view the facts and circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, so as to undergo remaining substantive 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 of Rs.2,000/- can be suitably enhanced.

Resultantly, the conviction of the petitioner for the offence under Section 409 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him whereas the fine of Rs.2,000/- is enhanced to Rs.15,000/-. As the petitioner has already deposited the fine imposed upon him, as is clear from the custody certificate, he shall deposit the enhanced amount of fine with the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for six months.

The revision is, accordingly, disposed of.

October 26, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No