

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

Criminal Revision 1955 of 2008

Date of Decision : May 5, 2016

Bali Ram	Versus	Petitioner
The State of Haryana		 Respondent

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

Present : Mr. Bhag Singh, Advocate

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

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

The petitioner was tried for committing offence punishable under Section 409 IPC on the allegations that during his tenure as Sarpanch of the village Kharu Khera, he embezzled an amount of Rs.81,606.53/-. Vide judgment and order dated 4/6.1.2005, learned Judicial Magistrate 1st Class, Ambala Cantt. held him guilty for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo simple imprisonment for one month.

Aggrieved of his conviction and sentence, the

petitioner preferred an appeal but the same was dismissed by learned Additional Sessions Judge (Fast Track Court) Ambala vide judgment dated 9.9.2008. Hence, the present revision, in which, he is on bail.

The case of the prosecution, in nutshell, is that the petitioner while acting as Sarpanch of the village Kharu Khera, he received/collected an amount of Rs.63,246.93/- of Panchayat fund, Rs.17,937.20/- of Jawahar Rozgar Fund and Rs.422.40/- as wheat money. In all, he had received an amount of Rs.81,606.53/-. However, he did not deposit the said amount in the account of the Gram Panchayat.

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court is of the considered view that the prosecution has been able to prove the guilt of the petitioner. PW1 Ram Rattan has testified that the petitioner, during his tenure as a Sarpanch, never convened the Panchayat nor passed any resolution for spending amount. Accordingly, he had submitted complaint against the petitioner to the Block Development and Panchayat Officer. Sham Lal, Panchayat Secretary, while stepping into the witness box as PW2 deposed that the petitioner did not deposit the amount of Rs.81,606.53/- with the bank, which he had collected while in his capacity as Sarpanch of the village Kharu

Khera. To the same effect is the testimony of PW3 Mangat Ram and PW4 Surjit Singh. The prosecution had also examined M.L.Saini, Block Development and Panchayat Officer as PW7, who deposed that the petitioner embezzled an amount of Rs.81,606.53/- and had not spent a single penny out of the same on any development work.

In view of the above, no case is made out for any interference in the conviction of the petitioner for the offence under Section 409 IPC.

The petitioner is facing the agony of criminal prosecution for the last more than twenty years. He is not shown to be a previous offender. He is on bail pursuant to order dated 24.10.2008 passed by this Court. There is no allegation that while on bail, he has misused the concession in any manner. As per the custody certificate produced by the learned State counsel, he has undergone an actual sentence of one month and twenty nine days.

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 the remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met, if his substantive sentence of imprisonment is reduced to the one already

undergone by him. At the same time, fine of Rs.5,000/- 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 period already undergone by him. The fine of Rs.5,000/- is, however, enhanced to Rs.85,000/-. The enhanced amount of fine, i.e. Rs.80,000/-, be deposited by him with the trial Court within three months from today, failing which, he shall undergo simple imprisonment for a period of 1½ years. The enhanced amount of fine, if deposited by the petitioner be released in favour of or deposited in the account of the Gram Panchayat, Kharu Khera, Police Station Mulana.

The revision is, accordingly, disposed of.

May 5, 2016
amit rana

(T.P.S. MANN)
JUDGE