

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

Criminal Revision No.137 of 2011 (O&M).
Decided on:-April 27, 2016.

Rajender Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Keshav Partap Singh, Advocate and
Mr. S.K. Chauhan, Advocate
for the petitioner.

Ms. Shaveta Sanghi, AAG, Haryana.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against judgment dated 8.1.2011 passed by learned Additional Sessions Judge, Faridabad whereby his appeal against judgment of conviction dated 26.5.2010 and order of sentence dated 28.5.2010 passed by learned Additional Chief Judicial Magistrate, Faridabad was dismissed.

Briefly stated, case of the prosecution is that a complaint was made to the police by complainant Hansraj mentioning therein that on 9.4.1998, petitioner Rajender Singh along with Dr. Umesh came to him and talked about the sale of plot No.56. Dr. Umesh stated that the said plot was

measuring 150 sq. yards and the same could be sold for Rs.2 lacs. When the complainant asked about the papers of said plot, Dr. Umesh brought photocopy of an agreement, purportedly executed by one Shanta Kumari in the name of Nanak Chand as per which the sale deed was to be executed within 15 days. The complainant expressed his inability to purchase the plot within that short duration.

Later on, the deal was finalised for Rs.1.87 lacs and an agreement to sell regarding the said plot was executed on 9.6.1998 between the complainant and Nanak Chand. The complainant paid Rs.10,000/- to accused Nanak Chand and the date for execution and registration of the sale deed was fixed as 25.6.1998.

However, on 24.6.1998 at about 10.00 a.m. accused Rajender Singh, Nanak Chand and two other boys came to the complainant and told that they had booked a hotel in Delhi from where sale deed and Rs.50,000/- were gone missing. Rajender Singh told the complainant that he will get copy of said sale deed and execute the sale deed in favour of the complainant. On 25.6.1998, accused Nanak Chand got copy of the sale deed and took the complainant to Delhi where they prepared receipt of Rs.1.87 lacs and got affixed photograph of Shanta Kumari on general power of attorney. After 10 days, some other persons approached the complainant and claimed the said plot to be their own and disclosed that Shanta Kumari has not executed any sale deed.

On inquiry, the complainant came to know that accused Rajender Singh, Nanak Chand and Bittoo had conspired with each other, got prepared forged sale deed from the court and also got prepared a false agreement to cheat the complainant.

On these allegations, FIR No.240 dated 25.6.1998 under Sections 420, 467, 468 and 471 read with Section 120-B IPC was registered against the petitioner and three other co-accused, namely, Umesh, Parmod and Nanak Chand at Police Station Mujessar, District Faridabad.

Investigation was conducted. Report under Section 173 Cr.PC was prepared and presented in the Court. Copies of the report was supplied to the accused free of costs as envisaged under Section 207 Cr.PC. However, during the trial, accused Nanak Chand failed to appear before the trial Court and was consequently, declared as proclaimed offender vide order dated 12.2.2000 passed by the trial Court.

On finding a prima-facie case against the petitioner and other co-accused, charge under Sections 420, 467, 468 and 471 read with Section 120-B IPC was framed against them to which they did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined as many as nine witnesses. Thereafter, statements of accused under Section 313 Cr.PC were recorded wherein entire evidence appearing against them on record was put to them. The accused denied the evidence of the prosecution and

pleaded their false implication. However, no evidence in defence was led by the accused.

Learned Magistrate vide judgment dated 26.5.2010 acquitted accused Umesh and Parmod, but held the petitioner-accused Rajender Singh guilty and accordingly convicted him for commission of offence punishable under Section 420 read with Section 120-B IPC and vide separate order dated 28.5.2010, sentenced him to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- which was paid by the petitioner-accused before the trial Court.

Aggrieved against the said judgment and order, the petitioner-accused filed an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Faridabad vide judgment dated 8.1.2011. The petitioner-accused was ordered to be taken into custody for undergoing the sentence awarded by the trial Court.

It is in these circumstances, the petitioner has preferred the present revision petition before this Court.

This Court vide order dated 15.3.2011 admitted the present revision petition and suspended the sentence of petitioner during pendency of the petition. The petitioner was ordered to be released on bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Faridabad.

Learned counsel for the petitioner, during the course of arguments, has not challenged conviction of the petitioner and confined his

arguments to the extent that considering the custody of the petitioner and the fact that he is facing the agony of criminal proceedings for the last more than 17 years, the sentence awarded by the trial Court and affirmed by the appellate Court be reduced to the period already undergone by the petitioner. Learned counsel has submitted that as against the awarded sentence of six months, the petitioner has already undergone 2 months and 25 days and there is no other case pending against him. He has further submitted that the petitioner is a first time offender and is only bread earner of his family.

Learned State counsel, on the other hand, has filed the custody certificate, which has been taken on record. As per said certificate, the petitioner has undergone actual sentence for a period of 2 months and 25 days and there is no other case pending against him.

I have heard learned counsel for the parties.

This Court has scrutinized the impugned judgments passed by the Courts below as well as other relevant documents and evidence and finds that in view of the observations made by Hon'ble Supreme Court in ***Johar and others Versus M/s Mangal Prasad and another, 2008(3) SCC 423*** there is no scope of interference with the impugned judgments passed by the Courts below. Moreover, learned counsel for the petitioner has also not challenged conviction of the petitioner and confined his prayer to the extent of quantum of sentence only.

However, as regards pleas of the petitioner that he is facing

criminal proceedings for the last more than 17 years, a first time offender; only bread earner of his family; no other case is pending against him and as against the awarded sentence of six months, he has already undergone 2 months and 25 days, this Court finds that the prayer made by learned counsel for the petitioner carries weight.

In the case of ***Yadwinder Singh Versus State of Punjab 2009(3) RCR (Criminal) 245***, this Court, taking into consideration that the petitioner was facing criminal proceedings for the last 10 years; was not a previous convict; fine was paid by him and had already undergone sentence of more than three months out of total sentence of one year, had reduced the sentence of petitioner to the period already undergone by him.

Hon'ble Delhi High Court in the case of ***Joginder Lal Versus State 1998(3) RCR (Criminal) 192***, wherein the accused was convicted under Sections 420, 467, 468 and 471 IPC, reduced his sentence to the period already undergone by holding that the accused had already undergone substantial period of sentence and it would be quite harsh to direct him to undergo the remaining sentence after 30 years of the incident. Similar view has also been adopted by this Court in ***Criminal Revision No.1707 of 2005*** titled as ***Baldev Ram Versus State of Punjab*** decided on 30.9.2015.

Accordingly, taking into consideration the pleas of petitioner and also the judgments referred hereinabove, though conviction of the petitioner is upheld but the sentence imposed upon him under Section 420

read with Section 120-B IPC is reduced to the period already undergone by him, however, with no change in the fine clause.

With the aforesaid modification in the sentence, the present revision petition stands dismissed.

April 27, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE