

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

Crl. Revision 2136 of 2011
Date of Decision : May 06, 2016

Lakhbir Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Animesh Sharma, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana

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

The petitioner was tried for committing the offence punishable under Section 420 IPC on the allegations that despite receiving an amount of Rs. 1,00,000/- as earnest money, he did not execute sale-deed in favour of complainant-Jai Bhagwan. Vide judgment and order dated 17/19.1.2009, learned Additional Chief Judicial Magistrate, Fatehabad convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to undergo rigorous imprisonment for another period of one month.

Aggrieved of his conviction and sentence, the petitioner filed an appeal which was, however, dismissed by

learned Sessions Judge, Fatehabad on 30.8.2011. Still not satisfied, he preferred the present revision in which he is on bail.

Learned counsel for the petitioner has not challenged the conviction of the petitioner. However, he has submitted that the petitioner is facing the agony of criminal prosecution for the last about thirteen years. He is a first offender and required to look after his aged parents. It is also submitted that at the trial of the case, complainant-Jai Bhagwan PW1 admitted that no fraud was committed by the petitioner. Most of the remaining witnesses also did not support the case of the prosecution. It is further submitted that out of the sentence of one year imposed upon him, the petitioner has already undergone a sentence of about 2½ months. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has submitted that the learned trial Court as well as the learned lower appellate Court have rightly convicted the petitioner for committing the offence under Section 420 IPC. Even the sentence of imprisonment imposed upon him was commensurate with the crime committed by him. Learned State counsel has, however, produced the custody certificate, as per which the petitioner has undergone an actual sentence of two months and eight days. The petitioner is not shown to be involved or convicted in any other case.

Taking into consideration the totality of the facts and circumstances of the case, 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.

Resultantly, the conviction of the petitioner for the offence under Section 420 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained.

The revision is, accordingly, disposed of.

May 06, 2016
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(T.P.S. MANN)
JUDGE