

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

Crl. Revision 72 of 2011
Date of Decision : May 31, 2016

Ramesh Chaudhary	VERSUS	Petitioner
State of Haryana		Respondent

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

Present : Mr. Raj Kumar Gupta, Advocate
for the petitioner.

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

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

The petitioner was tried for committing an offence punishable under Section 409 IPC. Vide judgment and order dated 17/20.11.2008, learned Judicial Magistrate 1st Class, Kaithal convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs. 500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. The fine imposed was paid by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 23.10.2010, learned Additional Sessions Judge, Kaithal while finding no infirmity in the order of conviction passed by the trial Court, upheld the same. However, his substantive sentence of imprisonment was reduced from three years to two years. The sentence of fine alongwith its default clause was maintained. With the modification in the order of sentence passed by the trial Court, the appeal was dismissed. Still

not satisfied, the petitioner filed the present revision in which he is currently on bail pursuant to the order passed by this Court on 7.3.2011.

According to the prosecution, the petitioner while working as Lower Division Clerk in the Sub Division, HSEB, Pundri embezzled an amount of Rs. 1,30,428.25 Ps. Out of the said amount, he deposited a sum of Rs. 71,460.25 Ps in the office.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner. He, however, submits that the petitioner is facing the agony of criminal prosecution for the last about seventeen years. On account of his conviction and sentence in the present case, his services stand terminated. Out of the sentence of two years imposed upon him, he has already undergone a period of about six months. He is the sole bread winner of his family consisting of wife and two children. His aged mother, who is unable to move, is also residing with him. The petitioner himself is suffering from various ailments. Prayer has, accordingly, been made for taking a lenient view in the matter of sentence of imprisonment.

Learned State counsel has opposed the prayer by submitting that while in the capacity of public servant, the petitioner had embezzled an amount of Rs. 1,30,428.25 Ps which was entrusted to him. Learned State counsel has, however, produced the custody certificate, as per which the petitioner has already

undergone an actual sentence of five months and fourteen days. Besides, he is not shown to be involved or convicted in any other criminal case.

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 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, the amount of fine can be 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. 500/- imposed upon him is, however, enhanced to Rs. 10,000/-. The enhanced amount of fine be deposited by the petitioner with the trial Court within three months from today, failing which he shall be required to undergo rigorous imprisonment for three months.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

May 31, 2016
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(T.P.S. MANN)
JUDGE