

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1796-2015 (O & M)
Date of decision:16.02.2016

Balbir Singh Mann and anr. ...Petitioner(s)

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. D.P.S. Bajwa, Advocate,
for the petitioner(s).

Mr. Shilesh Gupta, Addl.A.G., Punjab.

Rajan Gupta, J. (oral)

Petitioners Balbir Singh Mann and Sunita Mann had been convicted by the Chief Judicial Magistrate, Sangrur, under section 420 IPC and were sentenced to undergo imprisonment as under:-

Offence	Sentence
420 IPC	To undergo R.I. for three years and to pay fine of ₹1000/- each and in default thereof to further undergo R.I. for 15 days.

The petitioners preferred appeal before Additional Sessions Judge, Sangrur, against the judgment of their conviction/sentence. Vide judgment dated 21.04.2015, the appellate court reduced the sentence imposed upon the petitioners from three years to two years. Except this modification, the appeal was dismissed. Feeling aggrieved against the judgments of both the courts below, petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners at the outset states that he is limiting his prayer only to the extent of reduction in the sentence

awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioners is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 17.09.2007, complainant Gurmeet Singh moved an application to SSP, Sangrur, stating therein that about 8-9 months ago, he was enticed by the accused namely Balbir Mann and his wife Sunita to send him to Canada. The petitioners assured him that he would be made permanent resident of Canada. On this pretext, the matter was settled at ₹ 9,00,000/-. After selling his 4-1/2 Bighas of land for ₹ 7,00,000/-, the complainant paid ₹ 4,50,000/- to the accused on 11.04.2007. Accused also took his passport. The complainant later came to know that the accused had also committed fraud with a resident of Uppali. The complainant alongwith some persons went to the house of the accused for getting the aforesaid amount returned. Accused Sunita Mann was present there but she refused to return the amount and told them that if they ever visited their home again, she would raise the allegations of raping her against them. Accused Balbir Mann brought .12 bore rifle from inside and also threatened them. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under section 420 IPC, charge was framed against the accused/petitioners, to which they pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as nine witnesses.

The statements of the accused under Section 313 Cr.P.C. were recorded, wherein all the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioners guilty of the charges under section 420 IPC and sentenced them as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Sangrur, by reducing the sentence awarded to the petitioners from three years to two years.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioners guilty of the charge framed against them. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on

the ground that the petitioners are poor persons and having a sick child and petitioner No.1 is the only bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record separate affidavits of Baljit Singh, PPS, Officiating Superintendent, District Jail, Sangruru, according to which petitioner No.1 Babir Singh had undergone actual custody of 01 year 03 months and 04 days and petitioner No.2-Sunita had undergone actual custody of 08 months and 24 days as on 09.02.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to one and a half year. However, the fine imposed by the trial court shall remain intact. Ordered accordingly.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioners shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

16.02.2016
sukhpreet

(RAJAN GUPTA)
JUDGE