

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

**CRR No.102 of 2016 (O&M)
Date of Decision: January 13, 2016**

Kuldip Kaur

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Mohit Garg, Advocate for the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

CRM-877-2016

There is delay of 9 days in filing the present revision petition.

For the reasons mentioned in the application, supported by an affidavit, delay of 9 days in filing the present revision petition is condoned, subject to all just exception.

Application stands disposed of.

CRR-102-2016

Impugned in the present revision petition is the judgment dated 04.09.2015 passed by learned Addl. Sessions Judge, Amritsar, affirming the judgment and order dated 13.10.2014 passed by learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, vide which the accused-petitioner was convicted under Section 420 IPC and sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of ₹5,000/-, in default thereof, to further undergo simple imprisonment for two months.

The prosecution case is that Surjit Singh, complainant came in contact with accused Kuldeep Kaur, who was doing business of sending people abroad. On the asking of accused Kuldeep Kaur that she will send at least five persons to England, the complainant contacted his friend Tonas S/o George Lal and Gurjit Singh S/o Gurnam Singh to go aboard. ₹7,50,000/- were paid to accused Kuldeep Kaur in the presence of Subedar Jasmail Singh and brother of Tonas. After 15 days, Gurjit Singh S/o Sohan Singh, who is son of uncle of the complainant along with two persons were sent to Thailand. There they were kept for one month. Then they were asked to make telephone call at their houses to deliver the remaining amount to accused Kuldeep Kaur. The said balance amount of ₹3,00,000/- was also received by Kuldeep Kaur and her brother Bittu. However, in place of sending the said persons to England, they were left at Kolkata Airport. The accused also took away the dollar of two thousand each from them. They remained in Gurdwara at Kolkata for two days and after taking some money from some persons came back to their homes.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

To support the prosecution case, Surjit Singh (complainant) as well as Gurjit Singh S/o Sohan Singh, who was one of the persons, who were sent abroad, were examined in addition to the other witnesses.

In this case, Tonas, Gurjit Singh S/o Gurnam Singh and Subedar Jasmail Singh were not examined.

A perusal of the lower court judgment shows that the report was received that Tonas as well as Gurjit Singh S/o Gurnam Singh have gone to foreign country. The lower court was of the view that Subedar Jasmail Singh was won over by the accused. Therefore, the lower court has relied upon the statements of Gurjit Singh S/o Sohan Singh and Surjit Singh.

Learned counsel for the petitioner has vehemently argued that the payment of ₹10,50,000/- to the accused is not proved. The complainant failed to disclose the sources from where such money was arranged. Moreover, the other material witnesses, namely Tonas, Gurjit Singh S/o Gurnam Singh and Subedar Jasmail Singh were not examined. Subedar Jasmail Singh is the person, in whose presence the initial money is stated to be paid.

I am of the view that in view of the fact that the two material witnesses have already gone abroad and one of the witnesses Subedar Jasmail Singh was not examined, is not fatal to the prosecution case. In this case, complainant Surjit Singh, who had paid the money of his share to accused Kuldeep Kaur, was examined. His statement is duly corroborated by Gurjit Singh S/o Sohan Singh, stating that he along with two persons was sent to Thailand and they were asked to pay the balance amount to accused Kuldeep Kaur. Surjit Singh has supported the prosecution case, stating that the initial money and the balance money were paid by him to accused Kuldeep Kaur. There is no reason to discard the statement of Gurjit Singh that he was first sent to Thailand and then left back at Kolkatta and was not send to England. He along with two persons remained in

Gurudwara at Kolkatta and arranged money there only to return to his home.

From its face, the statements of Surjit Singh and Gurjit Singh S/o Sohan Singh are reliable and inspire confidence. Therefore, these are rightly believed by the lower court. Moreover, the case was registered after due inquiry, in which mother and brother of accused Kuldip Kaur disclosed some suspicious activities of Kuldip Kaur regarding her business of sending the people to foreign country and receiving money.

As such, I am of the view that the guilt of the accused-petitioner was proved beyond all reasonable doubts. Therefore, she has been rightly convicted and sentenced by the lower court.

Learned counsel for the petitioner has prayed for leniency in the sentence of imprisonment awarded to the petitioner on the ground that she is a woman.

I am of the view that Section 420 IPC carries maximum imprisonment of 7 years. The lower court has already taken the lenient view by sentencing her for only two years. Keeping in view illegal activities of accused, no further leniency is possible.

Accordingly, the present revision petition stands dismissed.

(KULDIP SINGH)
JUDGE

January 13, 2016
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