

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

**Criminal Revision No.1034 of 2016 (O&M)
Date of Decision: 06.05.2016**

Bhola Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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

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

Present:- Ms. Prabhjot Kaur, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J.

CRM-8796-2016:

Prayer in this application is for condonation of delay of 52 days in filing the present revision petition.

Learned counsel for the applicant-petitioner contends that the petitioner is not only a poor person but is only earning hand in his family and is behind bars since his arrest. On account of his detention, his family condition further deteriorated. Although he had requested his relatives to file a revision petition against the judgment of conviction and sentence but the same could not be filed and therefore, the aforesaid delay has

occurred. The present revision petition has been filed by taking legal aid.

No reply to the application has been filed.

For the reasons stated in the application, same is allowed and the delay of 52 days in filing the present revision petition is condoned.

Main case:

Petitioner has filed the present revision petition against the judgment dated 22.9.2015 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib, whereby the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 4.2.2014 passed by Sub Divisional Judicial Magistrate, Malout has been dismissed.

Learned Magistrate has convicted and sentenced the petitioner as under:-

<i>Name of appellant</i>	<i>Offence U/s</i>	<i>Sentence of imprisonment and fine</i>	<i>In default of payment of fine</i>
<i>Bhola Singh</i>	<i>420 IPC</i>	<i>RI 03 years & ₹1,000/- as fine</i>	<i>RI for One month</i>
	<i>465 IPC</i>	<i>RI 02 years & no fine</i>	<i>--</i>
	<i>467 IPC</i>	<i>RI 03 years & ₹1,000/- as fine</i>	<i>RI for One month</i>
	<i>468 IPC</i>	<i>RI 03 years & ₹1,000/- as fine</i>	<i>RI for One month</i>
	<i>471 IPC</i>	<i>RI 03 years & ₹1,000/- as fine</i>	<i>RI for One month</i>

All the sentences were ordered to run concurrently.

Briefly stated, case of the prosecution is that one Raju son of Hans Raj and Bohar Singh, residents of Village Bodiwala along with one Bhola Singh were indulging in the business of forgery and crookedness at large level. They had opened account of Bhola Singh in different banks and all had hatched a conspiracy with accused Pardeep Kumar, Abhishek and Rajesh Kumar and obtained forged cheques of different firms. Said cheques were presented in the HDFC bank and SBI bank branch Baam for transfer of money in the account of Bhola Singh. Rajiv Kumar was also with them. On 3.8.2012, Rajiv Kumar, Pardeep Kumar, Abhishek, Rajesh Kumar, Bhola Singh, Bohar Singh and Raj Kumar came to receive the cheque amount in a Skoda car bearing registration No.PB-19E-0047, which was parked outside the office of electricity board. Considering the information to be reliable, *ruqa* was sent through PHG Raj Singh to the police station for registration of FIR against the abovesaid persons. Accused Abhishek Kumar, Rajesh Kumar, Pardeep Kumar and Bhola Singh were arrested on 3.8.2012 and on 19.8.2012, accused Rajiv Kumar was declared as innocent and accused Raju Singh and Bohar Singh could not be arrested. On completion of investigation, challan was presented against accused Abhishek Kumar, Rajesh Kumar, Pardeep Kumar and Bhola Singh in the trial Court and copies of documents were supplied to the accused free of costs as per the provisions of Section 207 CrPC.

Finding a *prima facie* case, learned trial Court framed charge against the accused under Sections 420, 465, 467, 468 and 471 IPC, to which they pleaded not guilty and claimed trial.

Learned trial Court after hearing the parties and appreciating the evidence on record, acquitted the accused Pardeep Kumar, Abhishek and Rajesh Kumar and convicted and sentenced the petitioner Bhola Singh, as indicated above.

Against the aforesaid judgment of conviction and order of sentence, the petitioner filed an appeal before learned Addl. Sessions Judge, Sri Muktsar Sahib which was dismissed and thereby, the conviction and sentence of the petitioner was maintained.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

While issuing notice of motion, learned counsel for the petitioner had confined his arguments only *qua* the quantum of sentence.

Learned counsel for the petitioner while reiterating his arguments contended that apart from the fact that as against the awarded maximum sentence of three years, the petitioner in custody for the last 2 years, 1 month and 27 days and there is no other case against him. She further submitted that the petitioner has already suffered the agony of a protracted trial for the last about 4 years since the registration of the FIR on 3.8.2012 and it should be a sufficient mitigating circumstance to treat him

leniently. She therefore, prayed that the sentence of the petitioner may be reduced to the period already undergone by him

Learned State counsel has produced on record the custody certificate of the petitioner and does not dispute custody period of the petitioner.

I have heard learned counsel for the parties and gone through the record of the case.

Reference may be made to judgment of Delhi High Court in the case of **Joginder Lal v. State 1998(3) RCR (Criminal) 192** as well as judgment of this Court in **Yadwinder Singh v. State of Punjab, 2009(3) RCR (Criminal, 245**, wherein while maintaining the conviction of the petitioners-therein, their sentences were reduced to the period already undergone by them. In the case of **Yadwinder Singh** (*supra*), the petitioner-accused, who was convicted for same offences under Sections 420, 465, 468 and 471 IPC and sentenced to undergo R.I. for one year, however, the Court reduced the sentence of the petitioner to the period already undergone by him.

Considering the facts and circumstances of the case, this Court do not find any infirmity in the judgments passed by the Courts below. However, considering the fact that the petitioner is suffering the incarceration for the last about 4 years and as against the awarded sentence of 3 years, petitioner is in custody for 2 years, 1 month and 27 days, this Court feels that ends of

justice will be met if the sentence of the petitioner is reduced to the period already undergone by him.

Accordingly, while upholding the judgments passed by the Courts below, the present revision petition is dismissed, however, the sentence awarded to the petitioner is reduced to the period already undergone by him. The petitioner shall be released forthwith, if not required in any other case, subject to payment of fine, if not paid.

May 06, 2016
AK

(HARI PAL VERMA)
JUDGE