

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

Criminal Revision No.1276-2016(O&M)

Date of Decision: 27.04.2016

Sunil Kumar

....Petitioner(s)

Versus

State of Punjab

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.G.S. Jagpal, Advocate for the petitioner(s).

Mr. Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J. (ORAL)

CRM-10814 of 2016

This is an application under Section 5 of Limitation Act, seeking condonation of delay of 63 days in filing the instant revision petition.

For the reasons stated in the application, same is allowed and delay of 63 days in filing the instant revision petition, is condoned.

Criminal Revision No.1276-2016

Petitioner, namely, Sunil Kumar, has filed the present revision petition challenging judgment dated 29.10.2015 passed by learned Additional Sessions Judge, Ludhiana, vide which the

criminal appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 24.03.2012 passed by learned Judicial Magistrate 1st Class, Ludhiana, was dismissed.

Learned Magistrate vide judgment dated 24.03.2012 has held the petitioner guilty for offence punishable under Sections 419 and 420 IPC and vide separate order of even date, sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days for offence punishable under Section 419 IPC. He was further sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days for offence punishable under Section 420 IPC.

Briefly stated, on 07.07.2006, a person namely Joginder Sharma, an official from Pollution Control Board, Patiala, came to the complainant namely Hari Shankar, who was doing work of Dyes at Tajpur Road, Ludhiana in the name of Master Art Processor. He stated to the complainant that since he has no pollution certificate, he will get his factory closed and if he wants that matter to be settled with higher officials, he took Rs.4000/- for this purpose. A day after, at about 4.00 p.m., the accused made a telephonic call to the complainant that Yadvinder Sharma official of Pollution Control Board, Patiala, speaking and their team of officers came to get closed his factory. The complainant accompanied his employee namely Master Viney Tiwari reached

at the place in front of Sangeet Cinema and gave Rs.5,000/- to a person wearing blue shirt, driver of Motor Cycle No.PB 10BD 4634. As the complainant had suspicion, he informed the police that both the persons took Rs.9000/- from him by inducement while wrongly impersonating themselves as officials. 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 sections 419, 420 IPC, charges were framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

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

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He 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 petitioner guilty of the charges under sections 419 and 420 IPC and sentenced him, as indicated above.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Ludhiana, but the same did not find favour with the petitioner and was, accordingly, dismissed vide judgment dated 29.10.2015.

It is in these circumstances that the petitioner has filed the present revision petition challenging the verdicts of the Courts below.

Learned counsel for the petitioner without arguing the case on merits has confined his arguments qua quantum of sentence only. He further contends that, as against the awarded sentence of one year, the petitioner has undergone actual period of sentence for last about 07 months 08 days. He has prayed that sentence of the petitioner may be reduced to the period already undergone by him. He also contends that sentence awarded to the co-accused of the petitioner, namely, Yogesh Syal was already reduced to 06 months by a co-ordinate Bench of this Court, vide order dated 02.02.2016 passed in *Criminal Revision No.4460 of 2015*.

Learned State counsel has produced custody certificate of the petitioner, which is taken on record. He has not disputed the custody of the petitioner as well as the fact that sentence of the co-accused-Yogesh Syal, was reduced to the period of 06 months.

Since the present revision petition has not been contested by the petitioner on merits, the impugned judgments dated 24.03.2012 and 29.10.2015 passed by the trial Court and the appellate Court respectively, are upheld. However, taking into consideration the fact that sentence awarded to the co-accused of the petitioner-namely, Yogesh Syal, has already been reduced to 06 months by a co-ordinate Bench of this Court, coupled with the

fact that as against the total awarded sentence of one year, he has suffered incarceration for a period of 07 months and 08 days, this Court feels that the ends of justice would be met in case the sentence awarded to him is reduced to the period already undergone by him. However, the fine imposed by the trial Court shall remain intact.

Ordered accordingly.

The petitioner be released from custody forthwith, if not required in any other case, subject to payment of fine, if not paid.

With the aforesaid modification in the quantum of sentence, the present revision petition stands dismissed.

(HARI PAL VERMA)
JUDGE

April 27, 2016
'Anjal'