

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1491 of 2016 (O&M)
Date of Decision: April 22, 2016

Kulbir Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Arora, Advocate
 for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kulbir Singh against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 10.10.2012 passed by learned Judicial Magistrate Ist Class, Gurdaspur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months under Section 409 IPC read with Section 120-B IPC and also challenging the judgment dated 16.02.2016 passed by learned Addl. Sessions Judge, Gurdaspur, vide which appeal filed by petitioner was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not contest the concurrent findings of the Courts below

regarding conviction and only prayed for reduction of the sentence.

Notice of motion qua quantum of sentence only.

Mr.P.S.Grewal, Deputy Advocate General, Punjab, who is present in the Court, on the asking of the Court, accepts notice on behalf of respondent-State and contests the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

The brief facts of the case as noted down by learned JMIC, Gurdaspur in his judgment are under:-

“Brief facts of the case are that an application/letter was received dt. 13.04.2006 to the effect that despite repeated requests the police authorities have not registered the FIR in the case of embezzlement of TRC amount of Rs.70,555/- by Jatinder Singh, Branch Manager Postmaster and Shri Kulbir Singh, Mail Deliverer of Fajulchak Branch, Post Office in Account with N.M.Singh, Sub Post Office in Gurdaspur Postal Division. The Sr. Superintendent of Post Office Gurdaspur has informed SSP's Gurdaspur vide his letter no.3916/EB dated 7.2.006, that accused have been removed from service by the department and that entire amount of loss has since been credited by them with penal interest, therefore, there is no need of any further action against the said officials. After consultation with the Ministry of Home Affairs, GOI, where the loss due to fraud by extra departmental agent exceeds the amount of security deposit, the case have to be necessarily reported to the police. For departmental postal employees this limit is Rs.5000/-. Further as per GOI rules, prosecution should be launched, irrespective of the fact of recovery of loss either in full or in part and there is no connection between waiver of prosecution and the extent of loss made good by or on behalf of the offender. The application was marked for inquiry and after inquiry, on the basis of the application, the present FIR was got registered. Investigation was conducted. Accused were arrested. Statement of witnesses was recorded. After completion of investigation, challan against all the accused was presented before the Court for trial.”

Learned counsel for the petitioner contended that the

petitioner is a poor person, only bread earner of the family and is suffering from criminal proceedings since 2006.

Keeping in view the fact that petitioner is first offender, only bread earner of the family and is suffering from the long protracted criminal proceedings for the last about 10 years, the sentence of the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of 1½ years instead of two years under Section 409 IPC read with Section 120-B IPC. However, the sentence of fine and in default sentence, will remain the same.

With the above-said modification in the sentence, the present revision petition stands dismissed.

April 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE