

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

Crl. Revision 2788 of 2014
Date of Decision : May 31, 2016

Balwinder Singh

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Raman Goklaney, Advocate

Mr. Vikram Bishnoi, Asstt. A.G., Punjab

T.P.S. MANN, J. (Oral)

The petitioner was tried for committing the offences punishable under Sections 420, 467, 468, 471 and 511 IPC. Vide judgment and order dated 13.7.2010, learned Sub Divisional Judicial Magistrate, Fazilka acquitted him of the charges under Sections 468 and 511 IPC. However, he was convicted under Sections 420, 467 and 471 IPC and sentenced as follows:-

- i) Rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- under Section 420 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of three months;
- ii) Rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- under

Section 467 IPC and in default of payment of fine to further undergo simple imprisonment for a period of three months; and

- iii) Rigorous imprisonment for a period of six months and to pay a fine of Rs. 200/- under Section 471 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of one month.

All the sentences were ordered to run concurrently.

The period spent by him in custody during investigation/trial was ordered to be set off against the substantive sentences of imprisonment.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 15.7.2014, learned Additional Sessions Judge-III, Ferozepur set-aside the conviction and sentence of the petitioner under Section 420 IPC. Instead, he was convicted under Section 468 IPC and awarded rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- and in default thereof to undergo rigorous imprisonment for a period of three months. His conviction and sentences of imprisonment and fine alongwith their default clauses under Sections 467 and 471 IPC were maintained. Still not satisfied, the petitioner preferred the present revision in which he is currently on bail pursuant to order dated 30.9.2014.

The case of the prosecution has been noticed by the learned lower appellate Court in para 2 of its judgment which is

reproduced here-in-below:-

“Briefly stated, this appellant was booked in this case on the complaint dated 14.7.2011 filed by Mr. Jiwan Lal Kataria, Chief Manager, State Bank of India, Branch Fazilka by which it was alleged that Sh. Balwinder Singh Proprietor of M/s Kachura Trading Company Arniwala, was maintaining the account no. 01000066143. A cheque book containing the leaves bearing no. 849001 to 849100 was issued to him. On 13.7.2011 a cheque no. 819018 for Rs. 10,000/- in favour of Balkar Singh was presented at the counter of the bank by the appellant. A token no. 227 was issued to him. Later on, when the Counter Clerk tried to post the cheque in the account of M/s Sandeep Traders bearing no. 0100006501, it was found that the cheque book was not issued in that account to M/s Sandeep Traders. On the close scrutiny of the cheque, it was found that the cheque number has been altered from 849018 to 819018. In fact, the cheque bearing no. 849018 was issued to M/s Kachura Trading Company. On 14.7.2011 the Manager called Mr. Balwinder Singh Proprietor of M/s Kachura Trading Company and enquired about the said cheque. Then, he admitted that he made an attempt to defraud the bank and he returned the token no. 227 of the bank which was in his custody.”

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that the prosecution has been able to establish its

case against the petitioner beyond reasonable doubt. The prosecution has brought on record cheque Ex. P7 which bore the stamp of Sandeep Trading Company but this cheque was never issued to the said firm. Even Sandeep Kumar appeared as PW3 supported the case of the prosecution that his firm had never issued any such cheque to the petitioner. PW2 Varinder Kumar Sharma, Senior Assistant testified that the cheque in question was presented by the petitioner. Therefore, no case is made out for any interference in the conviction of the petitioner for the charges under Sections 467, 468 and 471 IPC.

As regards the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about fifteen years. Admittedly, the cheque in question was never encashed and, therefore, the petitioner had not obtained unlawful gain by presenting the cheque in question. The petitioner is claimed to be the first offender. Further, out of the sentence of one year imposed upon him, he has already undergone total custody of four months and eleven days which includes remissions of one month and four days, as mentioned in the custody certificate already brought on record.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again,

for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met, if his substantive sentences of imprisonment on all the counts are reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner for the offences under Sections 467, 468 and 471 IPC are upheld. His substantive sentences of imprisonment on all the counts are reduced to the one already undergone by him. The sentences of fine alongwith their default clauses are maintained.

But for the modification in the quantum of sentence of imprisonment, as indicated above, the revision fails and is, therefore, dismissed.

May 31, 2016
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(T.P.S. MANN)
JUDGE