

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Revision No.1680 of 2016 (O&M)

Date of Decision: 02.09.2016

Sanjeev Kumar

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Neeraj Sharma, AAG, Punjab.

HARI PAL VERMA J.

CRM-14470-2016:

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 125 days in filing the present revision petition.

Learned counsel for the applicant-petitioner has contended that the petitioner is a poor person and was ignorant about the limitation period of filing of a revision petition within 90 days. On account of his detention, he did not have sufficient funds to engage a counsel to file a revision petition and therefore, the aforesaid delay has occurred in filing the present revision petition.

On notice of motion having been issued, no reply to the application has been filed.

For the reasons stated in the application, same is allowed and the delay of 125 days in filing the present revision petition is condoned.

Main case:

Petitioner-Sanjeev Kumar, who is presently confined in Central Jail, Ludhiana, has filed the present revision petition against judgment dated 22.9.2015 passed by learned Additional Sessions Judge, Ludhiana, whereby his appeal against judgment of conviction and sentence dated 28.2.2014 passed by Judicial Magistrate Ist Class, Ludhiana in case FIR No.418 dated 12.11.2008 under Sections 380, 420, 467, 468, 471 IPC, P.S. Division No.6, Ludhiana was dismissed.

Vide judgment dated 28.2.2014, learned Magistrate has held the petitioner guilty and convicted him for offence under Sections 411, 468, 471 IPC and vide separate order of even date, sentenced him as under:-

<i>Under Section 411 IPC</i>	<i>To undergo two years Rigorous Imprisonment and to pay fine of Rs.2000/- and in default of payment of fine, to further undergo 15 days simple imprisonment</i>
<i>Under Section 468 IPC</i>	<i>To undergo two years Rigorous Imprisonment and to pay fine of Rs.2000/- and in default of payment of fine, to further undergo 15 days simple imprisonment</i>

<i>Under Section 471 IPC</i>	<i>To undergo two years Rigorous Imprisonment and to pay fine of Rs.2000/- and in default of payment of fine, to further undergo 15 days simple imprisonment</i>
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All the abovesaid sentences were ordered to run concurrently.

Briefly stated, FIR No.418 dated 12.11.2008 under Sections 380, 420, 467, 468, 471 IPC, P.S. Division No.6, Ludhiana was registered against the petitioner with the allegations that he had withdrawn the amount from the bank by using forged cheques. The complainant – Manjit Singh was working as General Manager in Chadha Motor Company. Mr. Sumesh Chadha and Krishan Kumar Chadha were the Managing Directors of the company, who were operating all the transactions of the Bank. A cheque book bearing No.557201 was issued in the name of the company by the Indian Bank, Dholewal Branch, Ludhiana and from the said cheque-book, cheques bearing Nos.557201 to 557248 had already been issued by their company. The said cheque book was stolen by some one. The complainant searched the same at his own level but could not trace out the same. However, on the same date, at about 2-00 P.M., he received a telephonic call from Indian Bank, Dholewal Branch, Ludhiana that a cheque bearing No.557253, issued in the name of the company, was presented by the petitioner for withdrawing an amount of Rs.20,000/- from the said account and signatures on the said cheque were not matching with the signatures of the account holder and therefore, the signatures appear to have been forged by the petitioner. On getting this information, the

complainant reached the Bank and Bank officials showed him the said cheque, but the said cheque did not bear the signatures of the MD of his company and the signatures appearing on the cheque were forged. Accordingly, the matter was informed to the police and in this manner, fraud has been committed by the petitioner by stealing cheque book and thereafter, using the same by putting his forged signatures. On the basis of the statement of the complainant, the present FIR was registered.

The matter was investigated and challan was presented in Court. Copies of the challan were supplied to the accused, as envisaged under Section 207 CrPC free of cost and finding a *prima facie* case, charge under Sections 380, 468, 471 IPC was framed against the petitioner, to which he pleaded not guilty and claimed trial.

Learned Magistrate after hearing the parties and appreciating the evidence on record, vide judgment dated 28.2.2014, held the petitioner guilty for committing offence under Sections 411, 468, 471 IPC and accordingly, convicted and sentenced him, as indicated above.

Aggrieved from the aforesaid judgment and order of sentence, the petitioner preferred an appeal before learned Additional Sessions Judge, Ludhiana. However, the said appeal was dismissed by the appellate Court and the bail bonds and surety bonds of the petitioner, who was on bail, were cancelled and he was again taken into custody and sent to jail for serving the remaining sentence, as imposed by the trial Court.

It is in these circumstances, the petitioner has filed the present revision petition against the judgment dated 22.9.2015 passed by learned Additional Sessions Judge, Ludhiana.

At the outset, learned counsel for the petitioner has argued that he does not wish to argue the matter on merits and has confined his arguments *qua* the quantum of sentence only. He has submitted that the petitioner has not encashed the cheque in question and the only allegation against him is that he presented the said cheque for clearance and before the said cheque could be encashed, the alleged offence was pointed out to the complainant. Thus, taking into account the fact that the petitioner is a first time offender and is suffering a protracted trial for the last about eight years, the sentence awarded to him deserves to be modified and he may be released on probation.

Learned counsel for the petitioner has stated that after his conviction, the pendency of proceedings before the Court below had a desired effect upon the petitioner, as he has now reformed himself and had not indulged in any such criminal activity during the period he remained on bail from 3.12.2008 to 21.9.2015. At this stage, if the petitioner is directed to undergo the sentence awarded to him, it would have an adverse effect on his family as well. He further submitted that as against the awarded sentence of the petitioner for a maximum period of two years, he has been in custody for a total period of about one year, excluding remissions. Learned counsel for the petitioner has relied upon judgments of this Court in *Kulwant Singh v. State of Punjab 2003(1) CLJ (Criminal) 242*, *Simarjit Kaur v. State of Punjab 2015(3) RCR (Crl.)264*, *Mehanga Singh v. State of Punjab 2001(2) RCR (Crl.) 523*, *Sher Singh v. State of Punjab 2003(2) AICLR 670* and *Surinder Singh v. State of Haryana 2015(5) Law Herald 3905* to contend that for the offences alleged in the

instant case, this Court has allowed the prayer for release of the accused on probation.

On the other hand, learned State counsel has opposed the prayer made on behalf of the petitioner and stated that such like crimes are on increase and in case the petitioner is given a lenient treatment in this case, some other individuals will feel encouraged and would commit similar offences which will have an adverse effect so far as discipline in the society is concerned. He has further submitted that since the sentence awarded to the petitioner is in proportion to the offence committed by him, this revision petition be dismissed.

I have heard learned counsel for the parties.

Taking into consideration the fact that learned counsel for the petitioner has addressed his arguments only to the limited extent of quantum of sentence, it is not necessary to divulge into the merits of the case.

This Court feels that the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from a judgment of Hon'ble the Apex Court in the case of **Karamjit Singh v. State (Delhi Admn.), 2001(9) SCC 161**, wherein the observations made are as under:-

“Punishment in criminal cases is both punitive and reformative. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformative aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the

society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Keeping in view the ratio of law laid down in the above-mentioned judgments and fact that the petitioner has not crossed the age whereby he cannot be reformed, particularly when he is a first time offender and facing the agony of trial for the last about eight years, his conviction is upheld, however, he is ordered to be released on probation under Section 4(1) of the Probation of Offenders Act, 1958, for a period of one year, subject to the condition that the petitioner shall file an undertaking before the trial Court that he shall not indulge in any illegal activity during the period of one year and will lead a life of a disciplined citizen.

With the aforesaid modification in the order of sentence, the present revision petition is disposed of.

September 02, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No