

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

CRR No.1930 of 2016 (O&M)
Date of Decision: September 06, 2016

Sham Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Lovedeep Singh Sodhi, Advocate
for the petitioner.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sham Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 04.03.2015 passed by learned Judicial Magistrate Ist Class, Moga, vide which the petitioner was convicted and sentenced to rigorous imprisonment for a period of two years and to pay fine of ₹5000/- and in default of payment, to undergo rigorous imprisonment for a period of three months under Section 406 IPC and also challenging the judgment dated 28.03.2016 passed by learned Addl. Sessions Judge, Moga, vide which appeal filed by petitioner was dismissed.

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

regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence.

Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.169 dated 06.09.2007. The brief facts of the case as noted down in the judgment passed by learned JMIC, Moga, are as under:-

“2. Brief facts of the case, as per prosecution story are that Malkit Singh son of Bachan Singh, resident of Chugawan moved an application to SSP, Moga, to the effect that after his retirement, he has deposited Rs. 1,00,000/- with Gill Saran Finance Company, Moga, in the year 1999 and as per their conditions, this amount was to be double in four year and this amount has become Rs. 4,00,000/- in the year 2002-03. Now total amount due against accused is Rs.7,80,000/-. This company is owned by Sham Singh son of Gurmail Singh, resident of Street No. 3 Kachha Zira Road, Moga and Gurdev Singh son of Chanan Singh, resident of Village Chugawan. All the money transactions are done by Sham Singh. Upon his asking, he used to give false excuses and has not returned this amount. Earlier, he was not having knowledge of his whereabouts, but now he has knowledge that he is resident of Nakodar. He further stated in his complaint/application that shop of father-in-law of Sham Singh is near bus stand Nakodar. Accused have committed fraud with him. At end, prayer for taking action against the accused is made. Inquiry of this application was marked to DSP (D) by SSP, Moga, who has found accused Sham Singh and Gurmail Singh guilty in this case and he recommended for registration of FIR. This report was endorsed by SSP Moga and present FIR was registered against above accused. On 04.12.2007, accused were released on bail. After completion of the investigation, challan against the accused Sham Singh and Gurmail Singh was presented in the court.”

Learned JMIC, Moga, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions

Judge, Moga, vide judgment dated 28.03.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

Learned counsel for the petitioner argued that petitioner is first offender, only bread earner of the family and he is suffering from the criminal proceedings since 2007 and he has already undergone actual sentence of 6 months and 3 days out of total sentence.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that the petitioner is first offender, only bread earner of the family and in view of the fact the petitioner is suffering from long protracted criminal proceedings since 2007 i.e. for the last about 9 years and has already undergone actual sentence of 6 months and 3 days including remission of 25 days, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, will remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner Sham Singh, who is in custody, be set at liberty forthwith, if his custody is not require in connection with any other case, subject to payment of fine, if already not paid.

September 06, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No