

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3687 of 2015 (O&M)

.....

Date of decision:29.4.2016

Mohan Singh

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Karamjit Verma, Advocate for the petitioner.

Mr. Arshdeep S. Kler, Deputy Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 11.9.2015 passed by learned Additional Sessions Judge, Ludhiana, vide which the appeal filed by the petitioner against the impugned judgment of conviction and order of sentence dated 21.11.2014 passed by learned Sub Divisional Judicial Magistrate, Payal, convicting the petitioner for the offence under Section 420 and sentencing him to undergo rigorous imprisonment for two years and to pay fine of ₹1,000/- and in default of payment of fine to further undergo rigorous imprisonment for one month for the offence under Section 420 IPC, has been dismissed. However, the petitioner has been acquitted for the

offence under Section 468 IPC vide the above judgment of learned SDJM.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent finding of Courts below regarding conviction. He contended only on the point of reduction of sentence and notice of motion was only issued qua quantum of sentence. Learned State counsel appearing for the respondent-State contested this revision petition.

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

Learned counsel for the petitioner argued that the petitioner is more than 70 years old person. He also argued that he is not the main accused. The main accused has absconded. He was simply employee of the main accused Baldev Singh. He argued that the petitioner is a poor person and only bread earner of the family and further he is suffering from the long protracted criminal proceedings for the last about 13 years and has already undergone sentence of more than eight months.

The brief facts of the prosecution case as mentioned in the judgment of the learned Sub Divisional Judicial Magistrate, Payal, are as under:-

“In brief, the case of the prosecution, as it emerges from the police report and the documents appended therewith that the present case was registered on the basis of written complaint moved by Bhagwan Singh Sidhu son of Gurdial Singh, resident of Village Dhadey, at present r/o Rampura Phool, Tehsil Phool, District Bathinda to Superintendent of Police (HQ), Police

District Khanna. It is averred in the complaint that Baldev Singh and Mohan Singh had opened office in the name of Golden International Travelers at Doraha. They have got published advertisement in the newspaper for sending persons in Dubai, who are willing. He (complainant) and his relative and friends approached the above said travel agent who told them that they will send them in Dubai and will also arrange work for them. They had taken Rs.65,000/- from each in advance and thereafter forged visas were given to them. They have not sent them in Dubai. Thereafter, they told that they will send them in Malaysia and demanded Rs.1.30 Lacs from each person. The other persons, who had also given money to the aforesaid travel agent were Darbara Singh, his brother and Jagtar Singh, Beant Singh, Balwinder Singh and Tehal Singh etc. Neither they have sent them in abroad nor returned their money. Many a times they were called at Delhi and even Rs.50,000/- to Rs.60,000/- have been spent by them on their travel fair. They were assured that they will definitely send them in abroad but of no avail. After some time, they have eloped with their money. They have cheated deceived them on the pretext of sending them in abroad. Baldev Singh had taken Rs.2 Lacs and Mohan Singh had taken Rs.3 Lacs. Mohan Singh had returned Rs.60,000/- and Rs.2.50 Lacs is still to be due against him. The money was borrowed on interest. The

passports were also lying with the aforesaid persons. Hence the present complaint and action be taken against them. Hence the present case. After the completion of the investigation, the challan against the accused was presented by SHO, PS Payal before the Court for trial.”

After hearing leaned counsel for the parties and after going through the record, I find that the present petitioner is a poor person and suffering from the long protracted criminal proceedings since the year 2003. As argued he was simply the employee. He is not the main accused and is being first offender and further undergone seven months 17 days of actual sentence and has earned remission of 24 days.

Keeping in view the above facts, the sentence of the present petitioner is liable to be reduced and I order to reduce the sentence of imprisonment of the petitioner. His sentence of imprisonment is reduced to one year rigorous imprisonment instead of two years. The sentence of fine and in default of payment of fine shall remain the same.

With the above modification in the sentence of imprisonment, the criminal revision petition is dismissed.

April 29, 2016.

(Inderjit Singh)
Judge

hsp