

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

CRR No.3007 of 2016 (O&M)
Date of Decision: November 23, 2016

Mohinder Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Sekhon, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Mohinder Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 15.07.2014 passed by learned Sub Divisional Judicial Magistrate, Jalalabad, vide which the petitioner was convicted and sentenced to rigorous imprisonment for a period of six months and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of 15 days under Section 177 IPC and to further undergo rigorous imprisonment for a period of two years and to pay fine of ₹4000/- and in default of payment, to undergo rigorous imprisonment for a period of one month under Section 420 IPC and also challenging the judgment dated 25.07.2016 passed by learned Addl.

Sessions Judge, Fazilka, 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.105 dated 22.07.2010. The brief facts of the case as noted down in the judgment passed by learned SDJM, Jalalabad, are as under:-

“2. The allegations, in brief, against the accused are that the Provincial Government through the Tehsildar, Jalalabad allotted the accused land measuring 24 kanals comprised of Rectangle No.37, Killa Nos.1(8-0), 2(8-0), 3(8-0), situated within the area of village Chak Bajida, Tehsil Jalalabad for a sum of Rs.18,000/-, vide 'Conveyance Deed' bearing Indenture No.1331 dated 07.06.1999. But, the accused was restrained to sell the allotted land for a period of 20 years from the date of allotment. The mutation of the aforesaid conveyance/allotment, order No.2903 was sanctioned on dated 24.07.1999. However, the accused sold land measuring 38 kanals 08 marlas including the allotted land measuring 24 kanals in favour of one Palwinder Singh son of Gurdeep Singh for a sum of Rs.3,83,000/-, vide sale deed bearing Indenture No.376 dated 07.05.1999. The mutation of the aforesaid sale, order No.2904 was sanctioned on dated 24.07.1999. In this way, the accused cheated and thereby dishonestly induced the then Sub-Registrar, Jalalabad to register the sale deed executed by him in favour of Palwinder Singh by making a false declaration in the sale deed that he is the owner of the subject land and that it is free from all kinds of encumbrances. Whereas, in fact, the accused alienated the land measuring 24 kanals one month prior to its allotment in his favour. Even otherwise also, the accused was not competent to alienate the allotted land for a period of twenty years from the date of allotment.

3. The present case against the accused was registered in

pursuance of applications bearing serial No.179 dated 30.01.2009 moved by Sh. Charandev Singh Mann, P.C.S., the then Sub-Divisional Magistrate, Fazilka to Sh. Megh Raj, I.A.S., the then Deputy Commissioner, Ferozepur, and then No.2838 dated 06.07.2010 by the District Collector, Ferozepur to the then Senior Superintendent of Police, Ferozepur. During the course of ensuing investigation, the Investigating Officer recorded the witnesses' statements under Section 161 Cr.P.C., took the relevant record into police possession, and arrested the accused. The completion of the investigation was followed by submission of police report U/s 173 Cr.P.C. in the Court."

Learned SDJM, Jalalabad, 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, Fazilka, vide judgment dated 25.07.2016.

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

Learned counsel for the petitioner argued that petitioner is first offender, poor person and only bread earner of the family. Learned counsel for the petitioner further contended that petitioner is suffering from criminal proceedings since 2010 and he has already undergone actual sentence of 7 months and 15 days including remission.

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 petitioner is first offender, suffering from long protracted criminal proceedings since 2010 i.e. for the last about 6 years and in view of the fact that petitioner has already undergone actual sentence of 7 months and 15 days including remission of 1 month 12 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the

sentence already undergone by him. However, the sentence of fine and in default thereof, shall remain the same.

Resultantly, the present revision petition stands partly allowed.

Petitioner, Mohinder Singh, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, as imposed by the Courts below.

November 23, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No