

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 4207 of 2015 (O&M)
DECIDED ON: MARCH 22, 2016

HARI RAM @ SHASTRI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present: Mr. Vimal Kumar Gupta, Advocate
for the petitioners.

Mr. S.S. Pannu, DAG, Haryana.

JASPAL SINGH, J (ORAL)

Challenge in this revision petition is to the judgment of conviction and order of sentence dated September 17, 2012 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar in a case under Sections 420, 406 and 34 IPC, whereby petitioner has been convicted under Section 420 IPC read with Section 34 IPC and sentenced to undergo RI for a period of one year alongwith fine. The said judgment and order of sentence was affirmed by learned Sessions Judge, Yamuna Nagar vide its judgment dated October 05, 2015.

2. On November 02, 2015, the following order was passed by this Court:-

“Challenge in this criminal revision petition is to the judgment dated 05.10.2015 passed by learned Sessions Judge, Yamuna Nagar whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 420 read with Section 34 IPC, recorded by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari, was dismissed.

At the very outset, learned counsel for the petitioner contends that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioner. However, he submits that in view of circumstances of the case, the sentence awarded by the Courts below is on higher side.

Notice of motion for 14.12.2015 with regard to quantum of sentence only.”

3. A glance at the aforesaid order transpires that learned counsel for the petitioner did not press the conviction of petitioner and therefore, notice of motion was issued with regard to quantum of sentence only. This Court has also scrutinized the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioner under the aforesaid provisions of Indian Penal Code is concerned. As such, the conviction of the petitioner is upheld.

4. As far as quantum of sentence is concerned, learned counsel for the petitioner has submitted that the petitioner is a first offender. No other case of similar nature is either pending or disposed of against the petitioner. He never misused the concession of bail during trial. He has already undergone 11 months and 11 days, out of the total substantive sentence of 1 year.

Accordingly, learned counsel for the petitioner prays that sentence imposed upon the petitioner be reduced to the period already undergone.

5. This Court has given an anxious thought to the submissions made by learned counsel and has gone through the record available on file.

6. As per the custody certificate dated March 21, 2016, by now, the petitioner has already undergone approximately 11 months and 11 days out of total substantive sentence of 1 year.

7. In similar circumstances, the Hon'ble Apex Court in case **Harjit Singh v. State of Haryana, (2002) 10 SCC 695** had reduced the sentence of 7 years under Section 25 of the Arms act as already undergone (more than 5 years). To the same effect is the judgment in case **Kirpal Singh v. State of Punjab, 2009(1) AICLR 5 of 7** whereby this Court had reduced the sentence of petitioner to already undergone, taking into consideration the fact that petitioner has three children – there is no one to look after his family – petitioner has already undergone sentence of more than 5 months out of total sentence of one year. In cases **Jagdeep Singh @ Neetu v. State of Punjab, 2013(2) Law Herald 1849**; **Surjit Singh v. State of Punjab, 2003(2) RCR (Criminal) 429**, **Sudhir v. State of Haryana, 2001(2) RCR (Criminal) 336**; and **Chhotu Ram v. State of Haryana, 2013(4) RCR (Criminal) 630**, similar view has been adopted.

8. Taking into consideration the totality of facts and circumstances, though, conviction of the petitioner is upheld but the sentence imposed upon him under Section 420 IPC read with Section 34 IPC is reduced to the period already undergone by him with no change in fine clause. The petitioner is ordered to be released forthwith in this case.

9. With the above modification in the sentence, the revision petition is

dismissed.

CRM No. 36188 of 2015

In view of the aforesaid judgment rendered in the main case itself, application under Section 397 Cr.P.C. for suspension of sentence has rendered infructuous and is disposed of as such.

MARCH 22, 2016
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(JASPAL SINGH)
JUDGE