

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

(1)

CRR No.422 of 2014 (O&M)

Ashok Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

(2)

CRR No.423 of 2014 (O&M)

Ashok Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

(3)

CRR No.424 of 2014 (O&M)

Ashok Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

(4)

CRR No.425 of 2014 (O&M)

Ashok Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: October 25, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vishal Handa, Advocate
for the petitioner.

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

INDERJIT SINGH, J.

CRMs No.22287, 22289, 22304 and 22373 of 2015

All the above-mentioned applications have been filed under Section 427 read with Section 482 Cr.P.C. for ordering the sentences to run concurrently in CRR No.422, 423, 424 and 425 of 2014 arising out of FIR No.122 dated 25.09.1991 registered at Police Station City Batala, District Gurdaspur.

Heard.

All the applications are allowed. It is ordered that the sentences imposed upon the petitioner in all the above-mentioned cases shall run concurrently as all the cases have arisen from same FIR regarding separate entries of embezzlement.

CRRs No.422, 423, 424 and 425 of 2014

This order shall dispose of all the above-mentioned connected revisions as the point for determination in all the revisions is the same.

The above-mentioned revision petitions have been filed by petitioner Ashok Kumar against respondent State of Punjab under Section 401 Cr.P.C., challenging the judgments of conviction and orders of sentence dated 21.08.2010 passed by learned Sub Divisional Judicial Magistrate, Batala, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days under Section 467 IPC in each case and also challenging the judgment dated 13.12.2013 passed by learned Addl.

Sessions Judge, Gurdaspur, vide which appeals filed by respondent-State for

enhancement of sentence, were allowed and the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 467 IPC in each case and to undergo rigorous imprisonment for a period of five years and to pay fine of ₹10,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months under Section 409 IPC in each case whereas the appeals filed by the petitioner were dismissed.

Notice of motion was issued and learned State counsel appeared and contested the petitions.

The challans in all the cases were presented against the petitioner in case FIR No.122 dated 25.09.1991 under Sections 409, 467, 468 and 471 IPC, registered at Police Station City Batala. The brief facts of the case as noted down in the judgment dated 21.08.2010 passed by learned SDJM, Batala, are as under:-

“2. The case of the prosecution in brief is that present FIR was registered against the accused persons on the application moved by Shri Chaman Lal, Bank Manager to the effect that accused persons committed cheating and forgery regarding saving accounts by forging the withdrawal vouchers and withdrew several amounts from the account no.16323 of Pushpa Wati and account No.23945 of Suhag Wati by forging their signatures which were passed by Satish Kumar, Parbodh Kumar and Kimti Sagar. On the intimation, FIR was got registered against the accused persons. On completion of investigation and necessary formalities, challan against the accused persons was presented in the Court.”

Learned SDJM, Batala, after appreciating the evidence, convicted and sentenced the petitioner as stated above. Appeals were filed

by the petitioner against his conviction as well as by the State for

enhancement of sentence. The appeals filed by the petitioner were dismissed and appeals filed by the State were allowed vide judgments dated 13.12.2013 by learned Addl. Sessions Judge, Gurdaspur.

Aggrieved from the above-said judgments, all the above-mentioned revision petitions have been filed by the petitioner.

At the time of arguments, 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. Learned counsel for the petitioner argued that petitioner has already been terminated from the service. Learned counsel for the petitioner also contended that the petitioner is first offender, only bread earner of the family and suffering from criminal proceedings since 1991 and he has already undergone actual sentence of about three years including remission.

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

From the record, I find that findings given by both the Courts below are as per evidence and law. In no way, the impugned judgments passed by the Courts below can be held as perverse. Nothing has been pointed out as to which material evidence has not been considered or which material evidence has been misread by the Courts below.

As regarding the prayer for reduction of sentence, I find that earlier the petitioner was sentenced to undergo rigorous imprisonment for a period of six months by learned SDJM, Batala but his sentence was increased by learned lower Appellate Court and he was directed to undergo rigorous imprisonment for a period of five years under Section 409 IPC.

Keeping in view the facts and circumstances of the present case

and in view of the fact that petitioner is first offender, only bread earner of the family and is suffering from long protracted criminal proceedings since 1991 i.e. for the last about 25 years and has already undergone substantial sentence of about three years including remission out of the total sentence and also in view of the fact that sentence of the petitioner in each has been ordered to concurrently, the sentence imposed upon the petitioner in all the cases, is reduced to the sentence already undergone by him. However, the sentence of fine and default thereof, shall remain the same.

Resultantly, all the revision petitions stand partly allowed.

Petitioner Ashok Kumar, 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, if already not paid.

October 25, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No