

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4460-2015 (O & M)
Date of decision:02.02.2016

Yogesh Syal
...Petitioner(s)

Versus

State of Punjab
...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.S. Behl, Advocate,
for the petitioner(s).

Mr. R.S. Randhawa, Addl.A.G., Punjab.

Rajan Gupta, J. (oral)

Petitioner Yogesh Syal had been convicted by the Judicial Magistrate Ist Class, Ludhiana, under sections 419 and 420 IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
419 IPC	To undergo R.I. for one year and to pay fine of ₹1000/- and in default thereof to further undergo S.I. for 15 days.
420 IPC	To undergo R.I. for one year and to pay fine of ₹1000/- and in default thereof to further undergo S.I. for 15 days.

The petitioner preferred appeal before Additional Sessions Judge, Sangrur against the judgment of his conviction/sentence. Vide judgment dated 29.10.2015, same was dismissed. Feeling aggrieved against the judgments of both the courts below, petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that

he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 07.07.2006, a person namely Joginder Sharma, an official from Pollution Control Board, Patiala, came to the complainant namely Hari Shankar, who is doing work of Dyes at Tajpur Road, Ludhiana in the name of Master Art Processor. He stated to the complainant that since he has no pollution certificate, he will get closed his factory and if he wants that matter be settled with higher officials, he took ₹ 4000/- for this purpose. A day after, at about 4.00 p.m., the accused made a telephonic call to the complainant that Yadvinder Sharma official of Pollution Control Board, Patiala, speaking and their team of officers came to get closed his factory. The complainant accompanied his employee namely Master Viney Tiwari and reached at the place in front of Sangeet Cinema and gave ₹ 5,000/- to a person wearing blue shirt driver of Officer on M/C No.PB 10BD 4634. As the complainant had suspicion, he informed the police that both the persons took ₹ 9000/- from him by inducement while wrongly impersonating themselves as officials. On

this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 419, 420 IPC was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as four witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 419 and 420 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Ludhiana.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a first offender, poor person and having family to support. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of Surinder Pal Khanna, PPS, Superintendent, Central Jail, Ludhiana, according to which the petitioner had undergone actual custody of 04 months and 17 days as on 24.01.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to 06 months. However, the fine imposed by the trial court shall remain intact. Ordered accordingly.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

02.02.2016
sukhpreet

(RAJAN GUPTA)
JUDGE