

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 218

Criminal Revision No.4552 of 2015 (O & M)
Date of Decision: April 28, 2016

Joginder Singh & another

..... PETITIONERS

VERSUS

State of Haryana

..... RESPONDENTS

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CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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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?

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PRESENT: - Mr. Jainainder Saini, Advocate, for the petitioners.

Mr. Tanuj Sharma, Assistant Advocate General, Haryana.

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Jaspal Singh, J

1. The instant revision petition has been preferred by the accused – petitioners, challenging judgment dated October 30, 2015 passed by the Additional Sessions Judge, Jind whereby judgment of conviction dated February 4, 2014 and order of sentence dated February 7, 2014, passed by the Sub Divisional Judicial Magistrate, Safidon, in case bearing FIR No.240 dated November 19, 2009 under Sections 420, 467, 468, 471, 120-B IPC, Police Station, Pillukhera, has been upheld. Vide the impugned judgments/orders, the petitioners have been convicted

& sentenced to undergo RI for a period of three years besides fine under Sections 420, 467, 468, 471 IPC read with Section 120 IPC.

2. Briefly stated, on November 19, 2009, Shri Om Parkash, Branch Manager, Central Bank of India, Pillukhera, moved an application alleging that in the month of March 2008, Joginder Singh and Balinder Singh had produced a Jamabandi for the year 2002-03 pertaining to Khewat No.332, Khatoni No.432, total land measuring 147 kanals 1 marla, prepared by Ramphal Patwari for availing Tractor and Krishi Card Loan. The Bank officials assured about the genuineness of aforesaid Jamabandi by approaching the concerned Patwari. After verification of the records, the Bank sanctioned separate loans of ₹ 4,00,000/- each as Tractor loan and ₹ 2,70,000/- each as Krishi Card Loan in favour of both the accused. Total loan of ₹ 13,40,000/- was sanctioned. Mortgage deed No.2080 dated March 24, 2008 was executed by Joginder Singh and Mortgage deed No.2065 dated March 24, 2008 was executed by Balinder Singh in favour of bank and in this regard, mutation/DDR No.349 and 348 dated March 24, 2008 were entered by the concerned Patwari, Halqa Pillukhera. As per the requirements of accused, payments were made to Eskay Tractors, Jind Road, Safidon on account of the Tractors and amount of Krishi Card Loan was deposited in their bank accounts. Later, it came to the notice of bank that both the accused persons, in connivance with concerned Patwari and other revenue officials, prepared forged documents and same have also been entered in the computers of DC office. On the basis of this complaint, FIR in question was registered and investigation was set in motion.

3. After completion of investigation, challan against accused – petitioners, was presented in the court of jurisdictional Magistrate. They were supplied the copies of police report and other documents appended therewith as required under Section 207 Cr.P.C., free of costs.

4. Finding a prima facie case against the accused, they were charge-sheeted for offence under Sections 420, 467, 468, 471 IPC read with Section 120-B IPC, to which, he pleaded not guilty and claimed trial.
5. In order to prove the charge, prosecution examined as many as 18 witnesses.
6. Incriminating circumstances appearing in the prosecution evidence were put to accused in their statement under Section 313 Cr.P.C. who denied the same, pleaded innocence and complained of false implication. No evidence in defence was led.
7. After hearing learned counsel for the parties and having gone through the material available on record, the Trial Court vide judgment dated February 4, 2014, held the accused guilty, convicted under the aforesaid provisions of Indian Penal Code and sentenced as detailed above.
8. Disheartened with his conviction & sentence, petitioners preferred an appeal before the lower appellate court but it was dismissed vide judgment dated October 30, 2015.
9. Now, accused – petitioners have approached this Court by way of instant revision petition challenging their conviction and sentence imposed by the trial court and upheld by the appellate court vide judgment(s)/order(s), referred to above.
10. While issuing notice of motion on November 28, 2015, this Court passed the following order:-

“Challenge in this criminal revision petition is to the judgment dated 30.10.2015 passed by learned Additional Sessions Judge, Jind, whereby the appeal filed by the petitioners challenging their conviction and sentence for the offences punishable under Sections 420, 467, 468 and 417 read with Section 120-B, IPC, recorded by learned Sub-Divisional Judicial Magistrate, Safidon, was partly allowed.

At the very outset, learned proxy counsel for the petitioners contends that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioners. However, he submits that in

view of the circumstances of the case, the sentence awarded by the Courts below is on higher side.

Notice of motion for 12.01.2016 with regard to quantum of sentence only.”

11. This Court has also scrutinized the impugned judgments as well as the relevant document(s)/ 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 IPC is concerned. As such, the conviction of the petitioner is upheld.

12. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and upheld by the appellate court. Apart from the fact that the petitioners are facing the agony of protracted trial for the last more than 6 years after registration of the instant case, they are the only bread winners in the family and a source of livelihood for the old aged parents and small children and wives. No doubt, another case was also registered against Joginder Singh, petitioner No.1 and he faced the trial but was acquitted. Thus, that leaves no scar or stigma to take a lenient view. As far as petitioner No.2 is concerned, there is no case except the one in hand qua him. Moreover, petitioners have already suffered incarceration for a period more than 6 months 6 days and 7 months 12 days, respectively, as is evident from custody certificate dated March 30, 2016. Thus, this Court is of the considered view that a chance be given to them to reform & improve themselves and to become good citizens and lead a peaceful & harmonious life.

13. As an upshot, while taking into consideration the totality of facts and circumstances, though, conviction of the petitioners is upheld but the sentence imposed upon them by the courts below is reduced one year each, with no change in fine clause.

14. With the above modification in the sentence, revision petition stands dismissed.

April 28, 2016
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(Jaspal Singh)
Judge