

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 582 of 2015 (O&M)
DECIDED ON: JANUARY 22, 2016

GAFOOR MASIH @ GAFOOR GILL

....PETITIONER

VERSUS

STATE OF PUNJAB

.....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?***

application No. 246 dated 15.01.2008 was moved by the complainant Kanwaljit Singh, Manager, Punjab and Sind Bank, Kahnuwan to the effect that on 15.01.2008 at 12.30 PM, 11 cheques amounting to Rs.97,936/- relating to Cooperative Bank and Gramin Bank, Kahnuwan were handed over to Gafoor Masih, who was the employee of Punjab and Sind Bank, Kahnuwan, for local collection but he did not turn up. Upon inquiry from the Gramin Bank, Kahnuwan, he came to know that cash of 7 cheques amounting to Rs.93,957/- was handed over to Gafoor Masih. At 3.45 PM, wife of Gafoor Masih came to the Bank and told that one person is lying on the road leading to Village Gullughara. He along with cashier Harbans Singh and Hardev Singh Bank Guard went to there and found that Gafoor Masih was lying on the road. He informed the police. During investigation, Gafoor Masih confessed his guilt. His statement under Section 27 of the Evidence Act was recorded. A sum of Rs.93,957/- was recovered from Gafoor Masih. On the basis of the above said complaint, FIR was registered. Investigation was carried out. Statements of witnesses were recorded. After completion of investigation, challan against Gafoor Masih was presented in Court.

3. Here it would be pertinent to mention that at the time of issuance of notice of motion, petitioner did not challenge his conviction on merits and only confined his relief qua quantum of sentence. 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 is concerned. As such, the conviction of the petitioner is upheld.

4. Custody certificate filed by learned State counsel in respect of

petitioner is taken on record.

5. The contention of learned counsel for the petitioner is that petitioner is sole bread winner, having three minor daughters and has to support his entire family. He is the first offender and is confined in jail for serving out the sentence since the date of his conviction i.e. December 11, 2014. He further submits that petitioner has already undergone more than 01 year 03 months out of total substantive sentence of 02 years. Otherwise also, he is facing the agony of protracted trial since January 2009.

6. After bestowing due consideration to the aforesaid submissions and considering the entire facts and circumstances, this Court is of the considered view that petitioner deserves some modification in the quantum of sentence.

7. Undoubtedly, petitioner is facing the agony of protracted trial since the date of registration of FIR i.e. January 15, 2009. He is also cooling his heels behind the bars since December 11, 2014. He has to support his family. He is also out of job due to his conviction and sentence in this case.

8. Taking into consideration the above narrated factors as well as the fact that petitioner has not challenged his conviction on merits, while affirming the conviction of the petitioner, the order of sentence is modified to the extent to the period already undergone by him.

8. In view of order passed in the main revision petition CRM No. 5696 of 2015 has been rendered infructuous and is dismissed as such.

JANUARY 22, 2016
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(JASPAL SINGH)
JUDGE