

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

CRR-558 of 2016 (O&M)

Date of decision: 20.09.2016

Kulwant Kumar Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

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

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Mr. V.D. Sharma, Advocate for respondent No.2.

Jitendra Chauhan, J.

CRM-29453-2016

Allowed as prayed for. Compromise Annexure P-11 is taken on record subject to all just exceptions.

Main Case

By filing the present criminal revision, the petitioner has assailed the judgment dated 07.12.2015, vide which, learned Addl. Sessions Judge, Patiala, upheld the judgment dated 04.01.2014, passed by learned Sub Divisional Judicial Magistrate, Samana, whereby, the petitioner was convicted under Section 420 of the

Indian Penal Code and sentenced to undergo RI for a period of 03 years and ordered to pay fine of Rs. 10,000/- and in default of payment of fine, to further undergo simple imprisonment for one month.

The brief facts necessary to dispose of this revision petition are that the petitioner and others floated a company with name MFC Pvt. Ltd., and contacted the people with assurance that they provide/arrange loan on interest equal to Government interest rate and 80% of the amount is to be provided within one month and demand drafts shall be handed over at the spot. The allegations against the petitioner are cheating to the tune of Rs.1,10,000/-.

The accused was charged sheeted under Sections 420, 467, 468 and 471 IPC, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Paramjit Kaur; PW-2 Roop Chand; PW-3 ASI Amrik Singh; PW-4 Ram Saran; PW-5 Dharam Pal; PW-6 Phool Kumar @ Phool Singh and PW-7 SI Rulda Singh.

The statement of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication. However, they did not lead any evidence in his defence.

After hearing the Addl. Public Prosecutor, the Counsel for the accused, and after going through the evidence, on record, the

trial Court convicted and sentenced the accused/petitioner, as stated hereinbefore.

The appeal filed by the petitioner was also dismissed, vide impugned dated 07.12.2015. Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioner.

The learned counsel for the petitioner states that the parties have compromised the matter and he does not press the revision petition on merits and has submitted that the petitioner is the sole bread winner of his family. He has further submitted that the petitioner have suffered a protracted trial since the year 2006. The petitioner has never misused the concession of bail during the trial. He has already undergone 01 year, 05 months and 09 days out of substantive sentence of 03 years. Thus, the learned counsel prays for a lenient view on the quantum of sentence imposed by the trial Court.

The learned counsel for respondent No.2 admits the factum of compromise.

On the other hand, the learned State counsel opposed the prayer of petitioner/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and has carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the prosecution witnesses. There is no flaw in the unassailed judgment of conviction. There is no merit in this present revision petition which is dismissed on merits.

The petitioner has suffered agony of protracted trial. It is one of the mitigating circumstances to treat him leniently. The petitioner has already undergone 01 year, 05 months and 09 days of sentence, out of the substantive sentence of 03 years and he never misused the concession of bail. The parties have entered into compromise, vide Annexure P-11. In view of the above, the prayer made on behalf of the petitioner is accepted. The sentence awarded to the petitioner is ordered to be reduced to the period already undergone.

Ordered accordingly.

However, the fine is further enhanced to Rs. 15,000/- to be paid to the State of Punjab within three months after the receipt of certified copy of the order. It is made clear that if the enhanced amount of fine is not paid within the stipulated period, the present revision petition shall be deemed to be dismissed without any notice.

20.09.2016
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No