

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

**Crl. Revision 797 of 2008**

Date of Decision : February 08, 2017

Narinder Singh and another

.....Petitioners

**VERSUS**

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN**

Present : Mr. Salil Bali, Advocate  
for the petitioners.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

**T.P.S. MANN, J. (Oral)**

The petitioners alongwith Sita Ram were tried for committing the offences punishable under Sections 406, 407, 420 read with Section 34 IPC. During the trial of the case, Sita Ram died and, accordingly, proceedings against him were dropped. Vide judgment and order dated 16.3.2007, learned Additional Chief Judicial Magistrate, Kurukshetra convicted the petitioners under Section 407 read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- each and in default of payment of fine, to further undergo imprisonment for a period of one month. They were also convicted under Section 420 read with Section 34 IPC

and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month. Both the sentences were ordered to run concurrently. The fine imposed was deposited by them there and then.

Aggrieved of their conviction and sentence, the petitioners preferred an appeal. Vide judgment dated 22.4.2008, learned Sessions Judge, Kurukshetra after holding that the learned trial Court had correctly appreciated the evidence, found no illegality or infirmity in the conviction of the petitioners. However, their sentence of imprisonment for one year on each of the two counts was reduced to rigorous imprisonment for nine months.

Still not satisfied, the petitioners preferred the present revision which was admitted by this Court on 3.6.2008 and they were granted the concession of bail.

According to the prosecution, complainant-Ramesh Chander was running a transport under the name and style of M/s Maha Laxmi Road Lines and engaged in the business of sending the goods after loading the same in the trucks and used to get commission in lieu thereof. On 13.1.1997, he got loaded 150 quintals (370 bags) of Basmati rice in a truck bearing

No. HR-46A-0592 from Kaithal and after giving bilty (transport certificate) No. 0602 from Pipli to driver Tikka Ram, the truck moved for Kandla. The truck, however, did not reach Kandla. He became suspicious that Tikka Ram, who was driver of the truck, Narinder Singh, owner of the truck and Sita Ram, who was doing the job of Cleaner on the truck in question, had misappropriated the rice on the way. During investigation of the case, Narinder Singh, owner of the truck was arrested, who got recovered the truck. Tikka Ram petitioner and Sita Ram also got recovered 369 bags of rice which were identified by the complainant.

Learned counsel for the petitioners has not challenged the conviction of the petitioners for the offences under Section 407 read with Section 34 IPC and Section 420 read with Section 34 IPC. However, he has submitted that the petitioners are first offenders; poor persons; and sole bread winners of their respective families. Tikka Ram petitioner generally remains ill due to asthma. Narinder Singh petitioner is a labourer and unemployed. Both of them are not previous convicts. Out of the sentence of nine months imposed upon them, both the petitioners have undergone an actual sentence of 1½ months. They are facing the agony of criminal prosecution for the last about twenty years. They are presently on bail pursuant to the order dated 3.6.2008. There is no allegation that they have misused the

concession of bail in any manner. It has also been submitted that out of the 370 bags of Basmati rice, 369 bags were recovered during the investigation of the case. Prayer has, accordingly, been made for setting aside their remaining substantive sentences of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the sentence of imprisonment imposed to the petitioners is commensurate with the crime committed by them.

As per the custody certificates already brought on record by the learned State counsel, both the petitioners have already undergone one month and fifteen days out of the sentence of nine months imposed upon them. They are also not shown to be either involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioners behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by them. However, the fine of Rs. 500/- imposed upon the petitioners on each of the two counts can be enhanced.

Resultantly, the conviction of the petitioners under Section 407 read with Section 34 IPC and Section 420 read with Section 34 IPC are maintained. Their substantive sentences of imprisonment on both the counts are reduced to the one already undergone by them. The fine of Rs. 500/- for the offence under Section 407 read with Section 34 IPC is enhanced to Rs. 2,000/- each. Similarly, the fine of Rs. 500/- imposed upon them under Section 420 read with Section 34 IPC is also enhanced to Rs.2,000/- each. The enhanced amount of fine shall be deposited by them with the learned trial Court within a period of three months from today, failing which they shall be required to undergo imprisonment for two months each.

The revision is, accordingly, disposed of.

**February 08, 2017**  
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**( T.P.S. MANN )**  
**JUDGE**

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No