

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

CRR No.3056 of 2013 (O&M)
Date of Decision: March 30, 2017

Gurdev Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.M.S.Kathuria, Advocate
for the petitioner.

Mr.Parveen Aggarwal, Deputy Advocate General, Haryana
for the respondent-State.

None for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurdev Singh against respondents State of Haryana and Kapil, challenging the impugned judgment of conviction dated 13.11.2010 and order of sentence dated 15.11.2010 passed by learned Judicial Magistrate Ist Class, Kaithal, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of two years and to pay fine of ₹1000/- and in default of payment of fine, to further undergo simple imprisonment for a period of three months under Section 420 IPC and also challenging the judgment dated 09.09.2013 passed by learned Addl. Sessions Judge,

Kaithal, vide which appeal filed by petitioner was dismissed. However,

other accused were acquitted of the charges by learned trial Court.

From the record, I find that a complaint was filed by complainant Kapil against Gurdev Singh, Kiran Beniwal and Mohinder Singh under Sections 420, 406, 506 and 120- B IPC . The brief averments of the complaint as noted down in the judgment passed by learned JMIC, Kaithal, are as under:-

“2. Briefly stated the relevant facts of the complaint are that the complainant is resident of Kaithal, Tehsil and District Kaithal, accused Gurdev Singh and accused Mohinder Singh are real brother, whereas accused Kiran Beniwal is the wife of accused Mohinder Singh. Accused Gurdev Singh entered into an agreement to sell his plot no.4119 having areas of 90 sq. meters situated in Urban Estate Sector-19 Part-II, Kaithal for a consideration of Rs.1,94,063/- with the complainant vide duly executed agreement dated 30.01.2002. He received total consideration at the time of execution of the agreement. As per agreement dated 30.01.2002, accused Gurdev Singh has promised to transfer the said plot in favour of the complainant on the asking to complainant in favour to any person, as and when desired by the complainant. But instead of transferring the plot in his favour, accused Gurdev Singh sold the plot to accused Kiran Beniwal. Accused Mohinder Singh is the middle man and accused Gurdev Singh and accused Kiran Beniwal had the knowledge about the agreement. The complainant came to know about this transfer on 10.03.2003 from Anil Kumar son of Tek Chand. The plot has been sold by conveyance deed no.3881/1, dated 18.02.2003. On 20.04.2003, he with Prem Chand son of Raghu Nath Goel, resident of Kaithal went to the plot, where the construction was going on and all the accused were present, accused Kiran Beniwal gave threat to implicate him in false criminal complaint and accused Gurdev Singh and accused Mohinder Singh threatened to kill him. The above said transfer is the result of dishonest intention on the part of accused, who are acting in collusion with each other. He has been cheated and accused have committed criminal breach of trust. He went to police station, City Kaithal many times for taking action against the accused, but police officials did not take any action against the accused person on 04.05.2003 Hence the present complaint.”

Learned JMIC, Kaithal, after appreciating the evidence,

convicted and sentenced the petitioner as stated above. An appeal was filed

by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Kaithal, vide judgment dated 09.09.2013.

Aggrieved from the above-said judgments and order, present revision petition has been filed by the petitioner.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings given by learned Courts below, regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is first offender, only bread earner of the family and is suffering from the criminal proceedings since 2010. He further contended that the petitioner has already undergone actual sentence of more than 11 months.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 13.11.2010 passed by learned JMIC, Kaithal, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is stated to be first offender, only bread earner of the family and is facing long protracted criminal proceedings since 2010 i.e. for the last about 7 years and also in view of the fact that petitioner has already undergone actual sentence of more than 11 months, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine

pay the fine within one month from the date of receiving the certified copy of the order, if already not paid, otherwise, the trial Court is directed to take necessary action as per law. As argued, fine has already been paid.

Therefore, the present revision petition stands partly allowed.

Since, petitioner Gurdev Singh is on bail, his bail/surety bonds stand discharged.

March 30, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No