

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

CRR No.109 of 2016.

Decided on:-December 05, 2017.

Inder.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. S.S. Sahu, Advocate
for the petitioner.

Mr. Manish Bansal, D.A.G., Haryana
for the respondent-State.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against the judgment dated 18.11.2015 passed by learned Additional Sessions Judge, Fatehabad whereby appeal filed by the petitioner against the judgment of conviction dated 05.11.2014 and order of sentence dated 10.11.2014 passed by learned Judicial Magistrate 1st Class, Fatehabad, was partly allowed.

Briefly stated, the FIR No.60 dated 21.03.2012 under Section 420 IPC and Section 7 of the Essential Commodities Act, 1955 was registered against the petitioner-accused at Police Station Bhattu Kalan, District Fatehabad on the basis of a letter dated 02.02.2012 forwarded by Om Parkash, Inspector, Food and Supply Department, Bhattu to SHO Police Station Bhattu Kalan through District Food and Supply Controller, Fatehabad. It was alleged

in the said letter that ration card bearing No.390148 of Indraj son of Kumbha Ram, resident of village Kirdhan had been cancelled after due enquiry, as the same was got issued from Food and Supply Department by taking undue advantage of the name of his father. As such, legal action against Inder son of Kumbha Ram (petitioner herein) was prayed.

After registration of the FIR in question, investigation was carried out and the petitioner-accused was arrested. Statements of witnesses under Section 161 Cr.P.C. were recorded and after completion of investigation, report under Section 173 Cr.P.C. was presented in the Court. Copies of Challan, as envisaged under Section 207 Cr.P.C., were supplied to the accused free of costs.

Finding a prima-facie case against the petitioner-accused, he was charge-sheeted for the commission of offence punishable under Section 420 IPC as well as Section 7 of the Essential Commodities Act, 1955 to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined as many as 8 witnesses including Om Parkash, Inspector, Food & Supply Department, Bhattu as PW2. Thereafter, statement of petitioner-accused under Section 313 Cr.P.C. was recorded wherein he denied the incriminating evidence as false and pleaded his innocence. However, no evidence was led by the petitioner-accused in his defence.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 05.11.2014, held the petitioner guilty and convicted him for commission of offence under Section 420 IPC and Section

7 of the Essential Commodities Act, 1955. Vide separate order dated 10.11.2014 passed by the trial Court, the petitioner-accused was sentenced as under:

<u>Offence</u>	<u>Sentence</u>
Section 420 IPC.	Rigorous Imprisonment for two years and to pay a fine of Rs.1,000/-.
Section 7 of the Essential Commodities Act, 1955.	Rigorous Imprisonment for six months and to pay a fine of Rs.500/-.

It was further ordered that both the substantive sentences shall run concurrently. However, the amount of fine was paid by the petitioner-accused before the trial Court.

Aggrieved against the aforementioned judgment and order passed by learned trial Court, the petitioner had preferred an appeal before the Court of Session. Vide judgment dated 18.11.2015 passed by learned Additional Sessions Judge, Fatehabad, the said appeal was partly allowed. The conviction and sentence of the petitioner under Section 7 of the Essential Commodities Act, 1955 was set aside and he was acquitted thereunder. However, conviction of the petitioner under Section 420 IPC was maintained, but the sentence under Section 420 IPC was reduced to rigorous imprisonment for a period of one and a half years. It was further ordered that the sentence qua the amount of fine shall remain intact.

It is in these circumstances the petitioner has approached this Court by filing the present revision petition.

At the outset, learned counsel for the petitioner has not challenged conviction of the petitioner and has confined his arguments qua the quantum of sentence only. It has been submitted that as against the awarded sentence of one and a half years passed by learned appellate Court, the petitioner has already undergone imprisonment for a period of 4 months and 23 days, including remission of 21 days. He is a poor person and has to look after his family being the sole bread earner. He has been suffering the agony of criminal proceedings since 21.03.2012, i.e. the date when the FIR in question was registered against him. He is a first-time offender and no other case is registered against him. Thus, it has been prayed that the sentence awarded to the petitioner be reduced to the period already undergone by him.

On the other hand, learned State counsel has filed the custody certificate of the petitioner in the Court today, which is taken on record. Learned State counsel has not disputed the custody of the petitioner as well as the fact that he is a first time offender and no other case is registered against him, but opposed the plea of taking a liberal view, as raised by learned counsel for the petitioner.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Section 420 IPC. The appeal filed by him was partly allowed by learned appellate Court and his conviction has rightly been maintained under Section 420 IPC though he was acquitted under Section 7 of the

Essential Commodities Act, 1955. There is no illegality or perversity in the findings given by both the Courts below regarding his conviction under Section 420 IPC, which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as per the custody certificate, the petitioner has already undergone imprisonment for a period of 4 months and 23 days including remission of 21 days. He has been suffering the agony of criminal proceedings for the last more than five years as the FIR in question was registered against him on 21.03.2012. It is also a conceded fact that he is a first time offender and no other case is pending against him.

Therefore, taking into account the protracted trial, antecedents of the petitioner and the period of custody of the petitioner, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, the sentence of petitioner qua the amount of fine, as awarded by learned appellate Court, shall remain intact. Perusal of the order of sentence dated 10.11.2014 passed by learned trial Court reveals that the fine as imposed by the trial Court has already been paid by the petitioner.

With the aforesaid modification in the sentence of the petitioner,
as awarded by learned appellate Court, the present revision petition stands
dismissed.

December 05, 2017

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No