

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

**CRR-2881-2015 (O&M)
Date of decision : 30.11.2017**

Gurdeep Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Vikram Mangat, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

H.S. MADAAN, J. (Oral)

Gurdeep Singh an accused in FIR No.97 dated 1.7.2012 for offences under Sections 406 and 420 IPC registered with Police Station Sadar, Samana was convicted by Sub-Divisional Judicial Magistrate, Samana vide judgement dated 20.1.2014 and vide order of even date was sentenced as under:-

“Rigorous imprisonment for a period of three years and to pay a fine of ₹10,000/-, in default of payment of fine simple imprisonment for a period of 30 days for offence under Section 406 IPC.”

Briefly stated facts of the case as per prosecution version are that District Controller, Food and Supplies and Consumer Affairs, Patiala had submitted a written complaint dated 15.6.2012 to S.S.P. Patiala with regard to misappropriation of paddy by M/s Ganesh Rice Mills, Gangroli, Tehsil Samana for the years 2010-11 and 2011-12 contending therein that PUNGRAIN an agency of Food and Supply Department had stored paddy in 86514 bags (30279.05 Quintals) during the years 2010-11 and 28163 bags of paddy (9857.90 Quintals) during the years 2011-12 in sheller of Gurdeep Singh – accused, proprietor of M/s Ganesh Rich Mills Ghangroli; that as per custom milling policy, owner of the sheller has to give resultant rice to the government after milling of the paddy, but the accused failed to do so as per schedule; that when the stock in the sheller was inspected by Food and Supply Officer Nabha along with other officials on 12.6.2012 it came out that neither any paddy nor any rice was available in premises of M/s Ganesh Rice Mills, Ghangroli, in that way Gurdeep Singh proprietor had misappropriated stock of paddy / resultant rice causing loss to the tune of ₹2.20 crores to the State Exchequer in violation of Clause 12(b) of the agreement. Formal FIR was registered, matter was investigated, accused was arrested in this case.

After completion of investigation and other formalities, he was challaned. On presentation of challan in the Court, copies of documents were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C.

Finding that a prima facie case punishable under Sections 406 and 420 IPC, was made out against the accused and he was charge-sheeted accordingly, to which he pleaded not guilty and claimed trial.

During course of prosecution evidence, it examined as many as fifteen witnesses i.e. Dr. Anjuman Bhaskar as PW-1, Chamkaur Singh as PW-2, Anup Inder Singh Inspector as PW-3, Vivek Singh Inspector as PW-4, Kuljinder Singh as PW-5, Amarjit Singh DFSO as PW-6, Pavitar Singh as PW-7, Mewa Singh as PW-8 and proved various documents. .

With that the prosecution evidence got concluded.

Statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against accused were put to him, but he denied the allegations contending that he is innocent and has been falsely implicated in the present case.

During his defence evidence, the accused examined Gurmeet Singh as DW-1 and Pargat Singh Sarpanch as DW-2 and also proved certain documents.

After hearing arguments, the trial Court convicted and sentenced the accused for offence under Section 406 IPC mentioned above. Feeling dissatisfied, he had filed an appeal before the Court of Sessions, which was assigned to Additional Sessions Judge, Patiala and she had disposed of the same vide judgment dated 23.07.2015 and affirmed the judgment of trial Court., whereas appeal was dismissed.

Feeling aggrieved with the impugned judgment, he has filed the present criminal revision before this Court.

I have heard learned counsel for the parties, besides going through the record.

At the very outset, learned counsel for the petitioner submitted that he does not challenge the judgments passed by the Courts below on the point of conviction but has got submissions to make as regards the sentence

part. He has contended that the petitioner - convict has undergone 1 year, 8 months and 24 days of imprisonment out of total imprisonment of 3 years awarded to him; that the petitioner is aged about more than 52 years and he is not previous convict, as such, lenient view in the matter be taken and sentence awarded to him be reduced.

As per custody certificate placed on the file, the accused is shown to be involved in criminal case bearing FIR No.104 dated 6.7.2013 for offences under Sections 406, 420 IPC registered with Police Station, Sadar Samana, Patiala, trial of which is going on and he is reflected to be on bail in that case.

On the other hand learned State counsel submits that the sentence imposed should not be interfered with and rather should be confirmed. A perusal of the custody certificate of the petitioner submitted by the State counsel goes to show that the he has already undergone one year, eight months and twenty four days out of total of three years.

After hearing the rival contentions, I find that ends of justice would be properly met if petitioner – Gurdeep Singh is sentenced to imprisonment already undergone by him while in custody in the present case, whereas the part of conviction relating to payment of fine is kept as intact. Therefore, the impugned judgment is upheld as regards conviction part qua petitioner – Gurdeep Singh.

However, as far as sentence part is concerned the same is modified and he is sentenced to imprisonment already undergone by him in this case i.e. total sentence including remissions one year, eight months and twenty four days. Whereas the sentence regarding payment of fine of ₹10,000/- in default of payment of fine to undergo simple imprisonment for

30 days.

With such modification criminal revision petition of petitioner – Gurdeep Singh stands disposed of. He be released from the custody on deposit of fine if not required in any other case.

Intimation in this regard be sent to the quarter concerned.

30.11.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**