

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

CRR No.1365 of 2017 (O&M).
Decided on:-November 17, 2017.

Jagbir Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Randeep S. Dhull, Advocate for
 Mr. Jasbir Mor, 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 08.03.2017 passed by learned Additional Sessions Judge, Jind whereby appeal filed by the petitioner and other co-accused against the judgment of conviction dated 03.12.2013 and order of sentence dated 05.12.2013 passed by learned Sub-Divisional Judicial Magistrate, Narwana, was dismissed with a modification that conviction of co-accused Ram Kumar under Section 409 IPC was set aside.

Briefly stated, complainant Ram Kumar son of Bhobal had filed a complaint before the Illaqa Magistrate with the averments that he was owner in possession of 1/5th share of the agricultural land measuring 10 Kanals comprised in Killa No.344//3/1 and 334//23 situated at Uklana Road,

Narwana. He had already sold his share to Roshan Lal, Raj Kumar, Raghbiro Devi and Vidya Devi in equal shares vide sale deed No.0963 dated 01.07.1986 and thereafter, he had no concern with the same. However, accused Ishwar Singh, Ram Kumar Lambardar and Satish Kumar in connivance with each other and some other person, with a view to damage his reputation and for the purpose of cheating, had impersonated some other person in his place and fraudulently got executed sale deed No.4766 dated 21.01.2008 with regard to the said land in favour of accused Ishwar Singh. However, the complainant had never got registered the subsequent sale deed by putting in appearance before Sub-Registrar, Narwana. Accused Ram Kumar being Lambardar had taken undue benefit of his post and wrongly identified the said imposter as the complainant. Accused Satish also wrongly identified the complainant and played fraud upon him.

On the basis of aforesaid sale deed No.4766 dated 21.01.2008, accused Ishwar Singh, by getting its mutation sanctioned, had made an attempt to take forcible possession from its original owners namely, Roshan Lal and others to whom the complainant had already sold the land in the year 1986.

On the basis of aforesaid complaint, learned Illaqa Magistrate, while exercising the powers under Section 156(3) Cr.P.C. got the FIR No.94 dated 02.05.2008 under Sections 405, 407, 408, 409, 419, 420, 471, 474 and 120-B read with Section 34 IPC registered against the petitioner and other co-accused at Police Station City Narwana, District Jind.

Statements of the witnesses were recorded and after completion of investigation, Challan 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 accused, they were charge-sheeted for the commission of offence punishable under Sections 409, 419, 420, 467 and 471 read with section 120-B of IPC by the learned trial Court vide order dated 18.05.2009 to which they did not plead guilty and claimed trial. However, during the trial, accused Satish failed to appear before the trial Court and he was ultimately declared as proclaimed offender by the trial Court vide order dated 30.05.2012.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 03.12.2013, held the petitioner and other co-accused guilty and convicted them for commission of offence under Sections 419, 420, 467 and 471 read with Section 120-B IPC. Besides this, co-accused Ram Kumar was also held guilty and convicted for commission of offence under Section 409 read with Section 120-B IPC. Vide separate order dated 05.12.2013 passed by the trial Court, the petitioner and other co-accused were sentenced as under:

<u>Offence</u>	<u>Sentence</u>
Section 409 IPC (convict Ram Kumar only)	Rigorous Imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo RI for six months.
Section 419/120-B IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for one month each.
Section 420/120-B IPC	Rigorous Imprisonment for three years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo RI

for six months each.

Section 467/120-B IPC

Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for one month each.

Section 471/120-B IPC

Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for one month each.

However, it was ordered that all the substantive sentences shall run concurrently.

Aggrieved against the aforementioned judgment and order passed by learned trial Court, the petitioner along with other co-accused had preferred an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Jind vide judgment dated 08.03.2017 with a modification that conviction of co-accused Ram Kumar under Section 409 IPC was set aside.

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 three years, petitioner Jagbir Singh has already undergone imprisonment for 1 year, 1 month and 9 days, including remission of 1 month and 15 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 02.05.2008, i.e. the date when the FIR in question was

registered against him. It has been prayed that the sentence awarded to the petitioner be reduced to the period already undergone by him.

Learned counsel for the petitioner has further contended that though there were certain other cases pending against the petitioner, but he has been acquitted in those cases by the trial Court. He has also placed on record certified copies of judgments passed by the trial Court in three different criminal cases, wherein the petitioner has been acquitted by the trial Court. The same are taken on record.

On the other hand, learned State counsel has filed the custody certificate of the petitioner in the Court today, which is taken on record. He has not disputed the custody of the petitioner, 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 Sections 419, 420, 467 and 471 read with Section 120-B IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below 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 petitioner Jagbir Singh is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as per the custody certificate, petitioner Jagbir Singh has already undergone imprisonment for 1 year, 1 month and 9 days including remission of 1 month and 15 days. He has been suffering the agony of criminal proceedings for the last more than 9 years as the FIR in question was registered against him on 02.05.2008.

The custody certificate further reveals that though there were four other criminal cases pending against the petitioner, but he has already been acquitted by the trial Court in those cases.

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 subject to payment of Rs.10,000/- as fine in addition to the fine already imposed upon by the trial Court.

Ordered accordingly.

Perusal of the order of sentence dated 05.12.2013 passed by learned trial Court reveals that the fine as imposed by the trial Court has already been paid by the petitioner. Therefore, he be released forthwith, if not required in any other case, subject to depositing aforementioned fine of Rs.10,000/-, as imposed by this Court.

It is made clear that in case the petitioner fails to deposit the fine of Rs.10,000/-, as imposed by this Court, he shall be liable to undergo the remaining part of his sentence.

With the aforesaid modification in the order of sentence, the present revision petition stands dismissed.

November 17, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No