IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1784 of 2017 (O&M)
Date of Decision: November 09, 2017

Kavita

...Petitioner

VERSUS

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Keshav Pratap Singh, Advocate
for the petitioner.

Mr.A.S.Salar, Asstt. Public Prosecutor
for the respondent-U.T. Chandigarh.

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INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kavita against respondent State of U.T. Chandigarh, challenging the impugned judgment of conviction and order of sentence dated 04.02.2017 passed by learned Addl. Chief Judicial Magistrate, Chandigarh vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹2000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 420 IPC and also challenging the judgment dated 27.04.2017 passed by learned Addl. Sessions Judge, Chandigarh, vide which appeal filed by petitioner was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that challan was presented against the petitioner along with co-accused in case FIR No.359 dated 09.09.2015 under Sections 406, 420 and 120-B IPC. The brief facts of the case as noted down in the judgment passed by learned ACJM, Chandigarh, are as under:-

> *"2. Briefly, it is the version of the prosecution that complainants namely Vipin Sharma, Smt. Malkiat Kaur, Baljin der Kaur and Smt. Sunita have made a joint complaint alleging therein that Prithvi Raj is a Constable in Chandigarh Police and Ms. Kavita is his daughter, who is living in Police Lines, Sector 26, Chandigarh. The alleged persons in connivance with each other cheated the families of Police Personnels residing in Police Lines, Sector 26, Chandigarh on the pretext of investing their money in the company of Kavita, as according to them Kavita was running a high profile company for investments. They hatched a conspiracy of taking money from illiterae house wives while alluring them that they will get huge return on their investments on daily basis or monthly basis. Initially, the said alleged persons had assured 3% return on every month, all the house wives got trapped in the enticements given by the above said alleged persons. The complainants deposited the amount with the said alleged persons and for three four months the alleged persons returned the amount of 3% profits, but later on they stopped paying anything to the complainants. Instead the said alleged persons started threatening and black mailing the complainants that their amount will be drowned in the market and if they want to save their money, they will have to put more money in the investment. But the complainants did not have more money for investment. The complainants further alleged that the alleged persons pressurized them to mortgage their gold with Karvi Gold Loan Company, SCO No.356, Sector 44, Chandigarh, who were known to Prithvi Raj. The complainants afraid of that their already paid money may not go away, they deposited their gold, but same was sold by the alleged persons. It has been further alleged that the alleged persons got their signatures on different papers on one or the other pretext and they were even not aware on what papers they were signing being illiterate. The alleged persons had issued cheques to the complainant, but all the cheques have been bounced on*

presentation in the bank. The complainants have SMS's and audio recording of alleged persons, in which they are accepting their liabilities. Now Ms. Kavita is threatening the complainants that she will commit suicide, if any step is taken against her. It has been further alleged by Baljinder Kaur that she was introduced with the alleged persons through Ms. Malkiat Kaur in the year 2012 and alleged persons had taken Rs.2.5 lacs on 28.09.2012 on the assurance that said persons will return 8% profit per month and gave advance cheques of profits. Ms. Kavita paid 8% profit for two months and then demanded more money in the same style and then forced to give Rs.1,00,000/- and threatened that if money is not deposited with her, then her money will be wasted. By threatening and alluring, Kavita took Rs.50,000/- on 05.06.2013, Rs.1,00,000/- on 08.06.2013 and Rs.1.5 lacs in January, 2014 and in this way, she took Rs.6.5 lacs from Baljinder Kaur. When Baljinder Kaur pressurized her to return the amount, then she issued cheques of Rs.9.35 lacs by assuring that she will get her money through said cheques. But later on Baljinder Kaur came to know that there was no amount in the relevant account and even Kavita had issued the cheques pertaining to account of some other person.

3. Malkiat Kaur in her complaint alleged that in the above said manner Ms. Kavita took from her an amount of about Rs.24,00,000/- at different times by alluring her of having huge profits, but later on neither she returned her actual amount nor profits, but also got pledged her gold worth lacs of rupees in her own name.

4. Sunita in her complaint alleged that Ms. Kavita introduced to her a unique scheme in the year 2011 that if she would give Rs.12,000/- per month for eight months, she would get one gram gold per month and on this allurement she invested Rs.1,20,000/- out of her savings and Kavita gave her two five grams coins. She further alleged that in the month of May, 2012, Kavita took Rs.1,00,000/- with assured profit of 3% and returned Rs.10,000/- per month for three months. Then Kavita again allured her to invest Rs.2,50,000/- for a scheme in hich she would receive Rs.2,000/- per day on every working day. Ms. Kavita gave the said profit to Sunita for some days and later on threatened to invest more money, otherwise money given by her earlier will go away. She further alleged that under the inducement of Kavita, Sunita arranged Rs.10,75,000/- from her near and dear and gave the same to Kavita and in this way, total amount given by her to Kavita comes to Rs.11,18,000/-. She further alleged that there are so many other people, who are also the victim of Kavita and her family. Accused Kavita is in the habit to cheat the general public by alluring them for investment with handsome return. It has been further alleged that another case FIR No.58 of 29.03.2014 for the offences under Section 409, 420 Indian Penal Code & 66 (A) & (D) of IT Act, 2000 has been registered

with Police Station, Sector 3, Chandigarh against Kavita.
5. On the basis of allegations of above complainants formal FIR was registered against the accused Kavita and during investigation, accused Gurpal Singh was also booked being accomplice of accused Kavita. During investigation, both accused were arrested and personally searched. Relevant record, relating to the case was recovered from the complainant as well as accused and same was taken into police possession. Statements of witnesses under Section 161 of Criminal Procedure Code were recorded. After the completion of necessary investigation, challan against both the accused for the offences under Section 406, 420 read with Section 120-B of Indian Penal Code was prepared and presented in the court for their trial."

Learned ACJM, Chandigarh, 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, Chandigarh, vide judgment dated 27.04.2017.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is a poor lady and having a minor child of four years to look after and she is pregnant also. He further contended that the petitioner is suffering from the criminal proceedings since 2015 and she has already undergone actual sentence of 2 years and 28 days including remission.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is stated to be poor lady and having a minor child of four years to look after and the fact that she is pregnant and also in view of the fact that she is facing criminal proceedings since 2015 and has already undergone actual sentence of 2 years and 28 days including remission, the sentence imposed upon the petitioner is reduced and she is directed to undergo rigorous imprisonment for a period of two years and six months under Section 420 IPC instead of three years. However, sentence of fine and in default thereof, shall remain the same.

With the above-said modification in the sentence, present revision petition stands dismissed.

November 09, 2017 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**