

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1889-2017 (O&M)
Date of decision: 26.10.2017

Joginder Singh	Versus	...Petitioner
State of Punjab		...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikas Gupta, Advocate for the petitioner.
Mr. A.S. Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Challenge in this petition is to the judgment dated 21.03.2014 passed by the trial Court convicting the petitioner-accused under Section 420 IPC and the order of sentence dated 21.03.2014 sentencing the petitioner to two years RI along with fine of Rs. 6,000/- and in default for payment of fine, further RI for 15 days as well as the judgment dated 20.04.2017 passed by the lower appellate Court dismissing the appeal filed by the petitioner.

Brief facts of the case are that the complainant Bhagwant Singh son of Bahadur Singh, on 02.03.2009 filed a complaint against the present petitioner before the police with the allegation that the petitioner, on pretext of sending his nephew to abroad, has taken a sum of Rs.1,40,000/- and has cheated him. It is further alleged in the FIR that the petitioner/accused posed himself as a Travel Agent and promised to send nephew/complainant abroad. It is further alleged that the complainant was residing in Dubai from 1991 to 2007 where he met Joga Singh son of Joginder Singh who was also residing there for a

period of two years and as such he became acquainted with the petitioner Joginder Singh, who informed that he is sending people abroad. On the promise of the petitioner, to send nephew of the complainant, namely, Harwinder Singh abroad, he has paid an amount of Rs.1,40,000/- by arranging the same from his relatives and the said amount was paid to the petitioner on 21.11.2007. However, neither the nephew of the petitioner was sent abroad nor the amount was returned.

After completion of the investigation, a report under Section 173 Cr.P.C. was submitted and charge under Section 420 IPC was framed against the petitioner. The trial Court, after recording the statement of the prosecution witnesses, held the petitioner guilty of commission of offence under Section 420 IPC and sentenced him to two years RI. The appeal filed by the petitioner was also dismissed.

At the very outset, learned counsel for the petitioner has submitted that he does not intend to challenge the conviction of the petitioner and has submitted that he will address the argument on the quantum of sentence only. It is submitted on behalf of the petitioner that a bare perusal of the FIR itself shows that the alleged amount was given on 21.11.2007 whereas complaint to the police was given for the first time on 02.03.2009 i.e. after a period of more than one year and there is no explanation given by the complainant in this regard.

It is also submitted that the petitioner is an Agriculturist by profession and has never worked as a Travel Agent and there is no evidence that apart from the allegation levelled in the FIR, the petitioner has ever acted as a Travel Agent for sending people abroad.

It is also submitted that the age of the petitioner is 65 years and is living

in a village and he is an illiterate person. The petitioner was neither involved in any such FIR prior to registration of the present case nor he was involved in any case subsequent to registration of FIR. It is also submitted that the petitioner has already undergone 06 months and 28 days of actual sentence and 07 months and 18 days of the sentence including remission and has never misused the concession of bail during the pendency of trial as well as the appeal pending before the lower appellate Court.

Considering the aforesaid facts and the age of the petitioner, the sentence awarded by the trial Court is reduced to already undergone by him. Since counsel for the petitioner submits that fine of Rs.6,000/- is already deposited, no further modification qua fine is required. The petitioner shall be released from judicial custody forthwith if not involved in any other case.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

26.10.2017
Divyanshi

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