

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

CRR No.2442 of 2017 (O&M)

Date of Decision: September 14, 2017

Jagdish Chander

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajesh Bansal, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jagdish Chander against respondent State of Haryana, challenging the impugned judgment of conviction dated 30.10.2014 and order of sentence dated 31.10.2014 passed by learned Chief Judicial Magistrate, Karnal, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹15,000/- and in default of payment of fine, to undergo simple imprisonment for a period of three months under Section 409 IPC and also challenging the judgment dated 01.07.2017 passed by learned Addl. Sessions Judge, Karnal, vide which appeal filed by petitioner was dismissed.

From the record, I find that challan was presented against petitioner in case FIR No.363 dated 25.10.2007 under Sections 406, 409

and 420 IPC. The brief facts of the case as noted down in the judgment

passed by learned CJM, Karnal, are as under:-

“2. The case of the prosecution as per the complaint Ex.PW4/A is that on 11.10.2007, the complainant i.e. the Sr. Superintendent of Post Offices, Karnal, made an application/complaint to register FIR against the accused i.e. Jagdish Chander who was working as Gramin Dak Sevak Branch Post Master Jamalpur B.O in account with Gharaunda Sub Post Office. It was alleged in the complaint that accused mis-appropriated the amount of Rs.67477/- by not depositing the amount after receiving the same from the SB/RD account holders in their accounts and thereby did not credit that amount and mis-appropriated the same for his own use. It was further alleged that during the period from April 2006 to February 2007, the aforesaid amount was received from 66 account holders by the accused in the capacity of a public servant while acting as Gramin Dak Sevak Branch Post Master Jamalpur B.O in account with Gharaunda Sub Post Office. After the enquiry conducted by the then Sub Divisional Inspector(P), West Sub Division, Karnal, the accused was found guilty. On the basis of this complaint, the present FIR was registered against the accused on 25.10.2007 under sections 406, 409, 420 IPC. After completion of investigation, challan was presented against accused. ”

In support of its case, prosecution examined 32 witnesses.

In the statement under Section 313 Cr.P.C., the accused denied the incriminating evidence and pleaded his innocence. No witness was examined in defence.

Learned CJM, Karnal, 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, Karnal, vide judgment dated 01.07.2017.

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

Records of the lower Courts were also requisitioned.

I have heard learned counsel for the petitioner and have gone

through the lower Courts record.

From the record, I find that the prosecution examined so many witnesses to prove the investigation of the case, posting of the present petitioner and also regarding the enquiry conducted against the petitioner. PW-5 Jagdish Chander, Senior Superintendent of Post Office deposed that enquiry against the accused was conducted and it was found that accused had mis-appropriated the amount of ₹67,477/- in SB/RD accounts and he had moved a complaint Ex.PW4/A to the police for registration of FIR. PW-6 Joginder Singh produced the appointment letter of Jagdish Chander. PW-7 Munni Devi, PW-8 Santosh Kumari, PW-9 Ram Niwas, PW-10 Vinod, PW-11 Hari Singh, PW-12 Rameshwar, PW-22 Jagwanti and PW-28 Rani deposed against the accused and these witnesses stated that they have given the money to the accused, but the same was not deposited in their respective accounts.

At the time of argument, learned counsel for the petitioner argued that so many witnesses have not supported the prosecution version. From the record, I find that though many witnesses have not supported the prosecution version and have been declared hostile but this fact itself will not show that findings of fact given by both the Courts below are not as per law. All the witnesses, who turned hostile, have been confronted with their statements recorded by the police during investigation. Furthermore, nothing has been argued by learned counsel for the petitioner that why so many witnesses Munni Devi etc. have deposed against the accused-petitioner. The findings of fact given by both the Courts below are correct, as per evidence and law. The findings cannot be held as perverse or illegal.

misread and which material evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by both the Courts below are against the evidence and law.

The perusal statements of PWs Munni Devi, Santosh Kumari, Ram Niwas, Vinod, Hari Singh etc. shows that they have not made any material improvement nor there is any material contradiction in their statements. These are reliable witnesses and the Courts below have put reliance on the statements of these PWs correctly. The evidence has been appreciated by both the Courts below correctly in right perspective. No illegality has been committed by the Courts below while passing the impugned judgments and order of sentence. The concurrent findings given by both the Courts below are correct, as per law and do not require any interference from this Court.

Keeping in view the facts and circumstances of the presence case that the petitioner has cheated the poor persons, who have deposited small amounts in the post office savings scheme etc., I do not find any ground to reduce the sentence of the petitioner.

Therefore, finding no merit in the present revision petition, the same is dismissed.

September 14, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No