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IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

1. CRR-2715-2017 [O&M]
Date of Decision:- December 05, 2017

Rameshwari BishnoiPetitioner.

Versus

State of Haryana ...Respondent.

2. CRR-3003-2017

Rajesh KumarPetitioner

Versus

State of Haryana ...Respondent.

3. CRR-3355-2017

Bhagwan DassPetitioner.

Versus

State of Haryana ...Respondent.

4. CRR-3877-2017

Vijay PalPetitioner.

Versus

State of Haryana ...Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Raman Chawla, Advocate,
for the petitioners (in CRR-2715, 3355 and 3877 of 2017)

Mr. Jainaninder Saini, Advocate,
for the petitioner in CRR-3003 of 2017.

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Mr. Chetan Sharma, AAG, Haryana,
for the respondent State.

SHEKHER DHAWAN, J.

The above titled four revision petitions are directed against the judgment of conviction dated 24.02.2015 and order of sentence dated 25.2.2015 passed by learned Judicial Magistrate Ist Class, Hisar, whereby the petitioner-revisionists were convicted and sentenced as under:-

Name of the accused.	Under Section	Sentence	In default
1.Rameshwari 2.Vijay 3.Bhagwan Dass. 4.Rajesh	120-B IPC	to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.5,000/-.	to further undergo Simple imprisonment for a period of three months.
Rameshwari Bishnoi	420 IPC	to undergo Simple Imprisonment for a period of two years and to pay a fine of Rs.5,000/-.	to further undergo Simple imprisonment for a period of three months.
	471 IPC	to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/-.	to further undergo Simple imprisonment for a period of three months.
Vijay Pal	467 IPC	to undergo simple imprisonment for a period of three years and to pay a fine of Rs.5,000/-.	to further undergo Simple imprisonment for a period of three months.
	468 IPC	to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/-.	to further undergo Simple imprisonment for a period of three months.

The appeal filed by the petitioners against the aforesaid judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Hisar.

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2. Facts relevant for the purpose of decision of these revision petitions; that the process of law was set into motion by complainant, Rajender Kumar son of Harakchand alias Harchand, resident of village Landhari, District Hisar (now resident of Jaipur), who moved an application to the police on 16.06.2010 to the effect that he is having ancestral land at village Landhari, his father Harkchand alias Harchand had two brothers namely, Ghansham Dass and Gudan Chand. His father Harakchand alias Harchand died on 27.05.1996; Gudan Chand died on 12.01.2006 and Ghansham Dass died about 40 years ago. However, when he came to village Landhari to look after his land, accused Surender told that he had become owner of the land in question and shown registered sale deed No.6702 (Ex.PW5/B) and 6703 (Ex.PW5/C) respectively and told the complainant that he had no concern with the land. On further inquiry from Tehsil Office, the complainant came to know that accused Sanjay, Luna Ram and Gopal Ram by impersonating Harakchand alias Harchand, Ghansham Dass and Gudan Chand respectively, fraudulently got registered the sale deeds in the name of Rameshwari Bishnoi, petitioner herein. Bhangwan Dass, Panch falsely identified accused No.2 to 4. Accused Surender had sold some share of the land to some other persons namely, Savitri wife of Subhash vide registered sale deed No.7562 dated 04.01.2010. Accused Surjeet, Halqa Patwari had changed the *girdawari* through *rapat* Nos.71 & 72 dated 26.03.2010 without giving notice to complainant. On these allegations, the present case under Section 420, 404, 467, 468, 471, 120-B IPC was registered and the matter was

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investigated and final report was submitted before the trial Court.

3. On the basis of trial by way of recording of statements of prosecution witnesses and documentary evidence and considering the defence version, learned trial Judge held the present petitioners namely, Rameshwari Bishnoi, Bhangwan Dass, Rajesh Kumar and Vijay Pal guilty, convicted and sentenced them as detailed above. The appeal filed by the present petitioners was dismissed by learned Additional Sessions Judge, Hisar vide judgment dated 29.07.2017.

4. At the time of arguments, learned counsel for the petitioners, *inter alia*, contended that the petitioners have been falsely implicated in this case, whereas the main accused in this case was Surrender, the main beneficiary in the case and Gopal Ram and Gugan Chand and all of them have died during the pendency of the litigation and as such, proceedings against them were dropped.

5. Learned counsel representing Bhagwan Dass, petitioner *inter alia* contended that his role is that of identifier only. Learned counsel representing Rajesh and Vijay Pal, petitioners contended that they are witnesses to the alleged sale deed and the main accused in this case have already died.

6. Learned counsel representing petitioner Rameshwari Bishnoi, *inter alia*, contended that she was the *bona fide* purchaser and the sale deed was executed in her favour for a valuable consideration and she had no role in the commission of alleged offence. He also contended that Rameshwari Bishnoi is more than 92 years of age and practically, she is

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on death bed. She has already undergone sentence of 2 months and 22 days while remaining in custody in this case and no purpose would be served by sending her behind the bars at this stage of her life. The main argument raised by learned counsel for the petitioners were on the point that main beneficiary of the alleged forgery was Surender, deceased son of Rameshwari Bishnoi and she was used by him for his illegal design.

7. Learned counsel for the petitioners submitted that the petitioners have already undergone following period of sentence in this case, as per the custody certificates submitted by the State:-

Name of the petitioner	Undergone period	Certificate dated
Rameshwari Bishnoi	2 months 22 days	Sentence stands suspended.
Rajesh Kumar	10 months 15 days	09.11.2017
Bhagwan Dass	7 months 23 days	21.11.2017
Vijaypal	1 Year 1 month 29 days	21.11.2017

8. Learned counsel mainly contended that the petitioners do not challenge the judgment of conviction of the accused persons, but since the main accused namely, Surender, Luna Ram and Gugan Chand have already died, the sentence awarded to the petitioners be reduced to the one already undergone by them, as detailed above.

9. Learned State counsel while arguing on this point, contended that the accused persons were all in one for committing the forgery and cheated the real owner of the property. They have dared to forge the

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documents and get the forged sale deed executed and that way, all of them were beneficiaries and even death of accused Surender, Luna Ram and Gugan Chand does not absolve them of their criminal liability. Learned trial Judge as also learned Additional Sessions Judges have already taken a lenient view on the point of sentence and there is no question of further reduction of sentence.

10. Having considered the facts, material and evidence available on the file, this Court is of the view that undisputedly, Surender is the main beneficiary and he has died during the pendency of litigation and proceedings against him have been dropped, he is the main conspirator in this case, who got the land transferred in the name of his mother, Smt. Rameshwari Bishnoi, who is now more than 92 years of age. She has already undergone actual sentence of 2 months and 22 days. Bhagwan Dass, Panch had identified the witnesses to sale deeds Ex. PW-5/B and PW-5/C. Petitioners, Rajesh Kumar and Vijay Pal are the witnesses to the sale deeds. That way, the Court cannot ignore the aspect that the main beneficiaries have already died during the pendency of the litigation and the petitioners before this Court have already undergone period of sentence ranging from more than 8 months to one year and two months, except Rameshwari Bishnoi, who has undergone actual sentence of 2 months and 22 days, but she is otherwise of the age of more than 92 years. No purpose would be served by sending Rameshwari Bishnoi behind the bars at the fag end of her life especially when she has taken the plea of being *bona fide* purchaser though rightly denied by the Courts

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below and the main accused in this case have already died. Remaining accused are not the main accused, rather witnesses and identifier to the alleged sale deeds and they have already undergone sentence ranging from more than 8 months to one year and two months against maximum awarded sentence of three years.

11. Taking all these factors into consideration, this Court is of the considered view that there are no ground to interfere in the judgment of conviction dated 24.2.2015 recorded by learned Judicial Magistrate Ist Class, Hisar and the judgment dated 29.7.2017 passed by learned Additional Sessions Judge, Hisar whereby appeal filed by the petitioners was dismissed. As regards to the order of sentence dated 25.2.2015 passed by learned trial Judge, the same is modified to the extent that the sentence awarded to the petitioners is reduced to the one already undergone by them in this case.

12. Vide order order 30.08.2017 passed by this Court, sentence of Rameshwari Bishnoi, petitioner, stands suspended. The remaining three petitioners, namely, Rajesh Kumar, Bhagwan Dass and Vijay Pal, who are in custody in this case, be set free if not required in any other case.

13. Resultantly, all these revision petitions are partly allowed in the above terms.

December 05, 2017
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(**SHEKHER DHAWAN**)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes