

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

(1) CRR No.996 of 2017 (O&M).
Decided on:-24.08.2017.

Harsarup and others

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

(2) CRR No.608 of 2017 (O&M).

Parveen and another

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Sanjay Jain, Advocate
for the petitioners in CRR No.996 of 2017.

Mr. Sanjiv Gupta, Advocate
for the petitioners in CRR No.608 of 2017.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

This order shall dispose of the aforementioned two criminal revision petitions as the same have arisen from a common FIR No.147 dated 12.05.2007 under Sections 419, 420, 467, 468, 471 and 120-B IPC registered at Police Station Ambala Cantt., District Ambala. Moreover, both the

petitions have been filed against judgment dated 06.02.2017 passed by learned Additional Sessions Judge, Ambala whereby appeal filed by the petitioners against the judgment of conviction and order of sentence dated 09.09.2014 passed by learned Judicial Magistrate 1st Class, Ambala, was dismissed.

However, for convenience and clarity, the detailed order is being passed in ***CRR No.996 of 2017*** titled as ***Harsarup and others Versus State of Haryana.***

Briefly stated, the FIR in question was registered on the basis of complaint moved by Sarwan Kumar and Vijay Kumar sons of Jyoti Ram against their brother Harsaroop (petitioner herein) and one Sushil Kumar. Jyoti Ram had a sister, namely, Chameli Devi, who had six children, namely, Ajmer, Maya Ram, Som Nath, Balbir, Maya Devi and Sona Devi. Maya Ram died on 02.08.2002, while Balbir died on 05.04.2003. Petitioner Harsaroop, who is the nephew of Chameli Devi got a forged GPA prepared in his name purported to be executed by L.Rs of Chameli Devi whose names are mentioned above pertaining to the land in villages Khuda Khurd, Sarsehri and Rampur. The forged GPA no.177 dated 14.7.2004 was registered in the office of Sub- Registrar No.1 Noida, District Ghazibad. The said GPA contains the fake photographs of Ajmer, Maya Ram, Som Nath, Balbir, Maya Devi and Sona Devi and their address is also wrongly given. It is stated that there was no question of execution of the GPA No.177 dated 14.7.2004 by the L.Rs of Chameli as Maya Ram had died on 02.08.2002 and Balbir had died on 05.04.2003. It is submitted that the accused Harsaroop on the basis of the forged GPA sold their property to some property dealer, namely, Sushil

Kumar, whereas, this property was to be given by the L.Rs of Chameli to the L.Rs of her brother Jyoti Ram, which included the complainants Sarwan Kumar, Vijay Kumar and the accused Harsaroop. The said property was sold vide sale deed No.5977 dated 23.02.2005.

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. Finding a prima-facie case against the petitioners, they were charge sheeted under Sections 419, 420, 467, 468, 471 and 120-B IPC to which they did not plead guilty and claimed trial.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 09.09.2014, held the petitioners guilty for commission of offence under Sections 419, 420, 467, 468 and 471 read with Section 120-B IPC. Vide separate order dated 09.09.2014 passed by the trial Court, the petitioners were sentenced as under:

<u>Offence</u>	<u>Sentence</u>
Section 467 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each.
Section 468 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each.
Section 471 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each.
Section 420 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each.
Section 120-B IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each.
Section 419 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each.

In default of payment of fine, the petitioners were further sentenced to undergo rigorous imprisonment for a period of two months 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 petitioners had preferred an appeal before the Court of Session, but the same were also dismissed by learned Additional Sessions Judge, Ambala vide judgment dated 06.02.2017.

It is in these circumstances the petitioners have approached this Court by filing the present revision petitions.

At the outset, learned counsel for the petitioners have not challenged conviction of the petitioners and have confined their respective arguments qua the quantum of sentence only. They have contended that as against the awarded sentence of two years, the petitioners are in custody since 06.02.2017 i.e. the date when their appeal was dismissed by learned appellate Court.

Learned counsel for the petitioners have further contended that the petitioners are first time offenders and having their respective families to look after. The petitioners have been suffering the agony of criminal proceedings since 12.05.2007, when the FIR in question was registered against them. Thus, they have prayed for reduction of the sentence of petitioners to the period already undergone by them.

Learned State counsel, on the other hand, has filed the custody certificates of the petitioners in the Court today, which are taken on record.

He has not disputed the custody of the petitioners, but opposed the plea of taking liberal view, as raised by learned counsel for the petitioners. However, he states that there is no other case against them.

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 petitioners guilty for commission of offence under Sections 419, 420, 467, 468 and 471 read with Section 120-B IPC. The appellate Court has also rightly dismissed their 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 petitioners have not assailed the judgments of conviction and have, rather, restricted their respective arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as per the custody certificates, petitioner Harsarup has already undergone actual imprisonment for 8 months and 4 days, whereas petitioners Naresh and Jagpal have undergone actual imprisonment for 7 months and 21 days. Similarly, petitioner Amar Singh has undergone actual imprisonment for 7 months and 18 days and petitioner Karnail Singh has undergone actual imprisonment for 7 months and 13 days. The other two petitioners, namely, Parveen and Kuldeep are in custody since 06.02.2017. The petitioners have been suffering the agony of criminal proceedings for the last more than 10 years as the FIR in question was registered against them on 12.05.2007.

Therefore, taking into account the protracted trial, period of custody of the petitioner as well as antecedents of the petitioners, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of Rs.20,000/- each as fine in addition to the fine already imposed upon by the trial Court.

Ordered accordingly.

Perusal of the order of sentence dated 09.09.2014 passed by learned trial Court reveals that the fine imposed by the trial Court has already been paid by the petitioners. Therefore, they be released forthwith, if not required in any other case, on their depositing aforementioned fine of Rs.20,000/- each, as imposed by this Court.

It is made clear that in case the petitioners fail to deposit the fine of Rs.20,000/- each, as imposed by this Court, they shall be liable to undergo the remaining part of their respective sentence.

With the aforesaid modification in the order of sentence, the present revision petitions stand dismissed.

Photocopy of this order be placed on the file of other connected case.

August 24, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No