

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 21.04.2018

1. CRR-1283-2009 (O&M)

Akhey Singh

...Petitioner

Versus

State of Haryana

...Respondent

2. CRR-1638-2009 (O&M)

Indraj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pardeep Goyal, Advocate
for the petitioner (in CRR-1283-2009).

Mr. Shiv Kumar, Advocate
for the petitioner (in CRR-1638-2009).

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

This order shall dispose of aforesaid two criminal revision petitions praying for setting aside the judgment of conviction dated 21.11.2007 passed by the trial Court, holding petitioners Akhey Singh and Indraj guilty of offences punishable under Sections 120-B, 467, 468, 471 of the Indian Penal Code (for short 'IPC') and order of sentence dated 22.11.2007, vide which both the petitioners were sentenced to undergo R.I. for 06 months with a fine of Rs.400/- and in default of payment of fine, they

were further ordered to undergo further R.I. for 03 days as well as for setting aside the judgment dated 09.05.2009 passed by the Additional Sessions Judge, vide which the appeal filed by the petitioners was dismissed.

Brief facts of the case are that the petitioners along with co-accused Hari Singh faced the trial in FIR No.120 dated 13.02.1996 under Sections 420, 467, 468, 471, 120-B IPC, Police Station City Palwal, which was got registered by Kiran Devi with the allegations that petitioner Akhey Singh, after affixing his thumb impression in the name of his mother, got prepared a forged power of attorney and committed the offence of cheating, whereas co-accused Indraj was a witness to the said power of attorney and on asking of Hari Singh, petitioner Indraj had witnessed the said power of attorney. Thereafter, Akhey Singh has sold the land of his mother Kiran Devi on the basis of said power of attorney.

Learned counsel for both the petitioners submit that they do not intend to challenge the judgment of conviction passed by the trial Court and restrict their arguments with regard to sentence awarded by the trial Court.

Learned counsel for the petitioners have submitted that the alleged sale deed, executed by petitioner Akhey Singh, has already been set aside by the Civil Court, as noticed by both the Courts below and petitioner Indraj was not a beneficiary and he was only a witness to the power of attorney. It is further submitted that FIR pertains to the year 1996 and the petitioners have faced the agony of protracted trial for the last about 22 years. It is also submitted that both the petitioners were on bail during pendency of the trial, during pendency of the appeal before the first appellate Court as well as during pendency of the present petitions and they have

never misused the concession of bail.

Learned counsel for the petitioners have further submitted that both the petitioners are not involved in any other case and during the pendency of the trial, they have not committed any other offence. It is further submitted that both the petitioners have their family to support.

Learned counsel for petitioner Akhey Singh submits that the petitioner is an old man and not maintaining good health and is a patient of asthma.

Learned counsel for petitioner Indraj also submits that as per the allegations in the FIR, the petitioner has only signed on the asking of accused Hari Singh, who has been acquitted by the lower appellate Court.

Learned counsel for the petitioners have lastly submitted that out of 06 months R.I. awarded by the trial Court, petitioner Akhey Singh has undergone 03 months and 07 days of total sentence including remission and petitioner Indraj has undergone 03 months and 06 days of total sentence including remission.

Learned State counsel has filed custody certificates dated 20.04.2018 of the petitioners and as per these custody certificates, petitioner Akhey Singh has undergone 03 months and 07 days of total sentence including remission and petitioner Indraj has undergone 03 months and 06 days of total sentence including remission and are not involved in any other case/FIR. It is not disputed that the petitioners have not misused the concession of bail or suspension of sentence during intervening period of about 11 years.

After hearing learned counsel for the parties, I uphold the

judgment of conviction passed by the Courts below and reduce the sentence of 06 months R.I. awarded by the trial Court to the period already undergone by the petitioners i.e. 03 months 07 days in the case of Akhey Singh and 03 months and 06 days in case of Indraj, for the following reasons: -

- (i) The petitioners have faced the agony of protracted trial for the last about 22 years and have not misused the concession of bail during pendency of the trial and appeal before the first appellate Court as well as during pendency of the present revision petitions.
- (ii) During the intervening period, the petitioners have shown improvement in their character and they are not involved in any other case.
- (iii) Petitioner Akhey Singh is an old man and petitioner Indraj is the only bread earner of his family.
- (iv) The petitioners are the first offenders and they have not repeated such offence during pendency of the trial since 1996.
- (v) The sale deed has already been set aside by the Civil Court.

Both these petitions are partly allowed. Judgment of conviction dated 21.11.2007 is upheld and sentence awarded by the trial Court, vide order of sentence dated 22.11.2007 i.e. 06 months R.I., is reduced to the period already undergone by the petitioners. Since the petitioners are on bail, their bail/surety bonds shall stand discharged.

With the aforesaid modifications, both the aforesaid petitions are disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.04.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No