

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

**CRR No.1563 of 2009 (O&M)
Decided on: 31.10.2018**

Ishwar Singh and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. J.K. Sehrawat, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting-aside the judgment dated 14.11.2006 vide which the petitioners were held guilty for commission of offence punishable under Sections 419, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (in short 'IPC') and the order of sentence dated 15.11.2006 vide which the petitioners were sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each and in default of payment of fine to further undergo simple imprisonment for a period of one month as well as the judgment dated 02.06.2009 passed by the Lower Appellate Court vide which the appeal preferred by the appellants/petitioners, was dismissed and the sentence of the petitioners under Sections 419 and 420 IPC was reduced from one year to six months rigorous

imprisonment (each) and under Sections 467, 468 and 471 IPC from two years to one year rigorous imprisonment (each).

Brief facts of the case are that a letter No.14-Reader dated 17.02.1998 was sent to the SHO, Police Station Civil Lines, Hisar by the Special Judicial Magistrate, Hisar, mentioning therein that during the course of prosecution evidence of criminal case bearing FIR No.261 dated 24.05.1996 registered under Sections 279, 337 and 427 IPC, at Police Station Sadar Hisar, PW5 – Harish Bhalla denied the execution of *superdaginama*. It is further stated therein that Harish Bhalla, produced a receipt dated 05.12.1995 pertaining to delivery of the vehicle i.e. motor car, showing that the said vehicle was sold to Sh. Bajrang Dass Goyal son of Mukandi Lal by said Harish Bhalla. It was revealed from the said letter that somebody had cheated the Court by impersonation and some another person was identified by Sh. S.K. Mittal, Advocate. On receipt of the said letter, an FIR No.65 dated 21.02.1998, for offence punishable under Sections 419, 420, 467, 468 and 471 IPC at Police Station Civil Lines, Hisar, District Hisar was registered.

During the investigation, the accused were arrested and on finding a *prima facie* case, both the petitioners were charge-sheeted on 20.07.2001 under Sections 419, 420, 467, 468 and 471 IPC, to which they did not plead guilty and claimed trial.

The prosecution examined Satya Narain as PW1, Deep Kishore as PW2, SI Ishwar Singh as PW3, Subhash, Assistant from D.C. Office as PW3 (wrongly numbered), ASI Shiv Kumar as PW4 and Harish Bhalla as PW5.

After conclusion of the prosecution evidence, all the incriminating evidence was put to the petitioners under Section 313 Cr.P.C. but they denied the same and pleaded innocence, however, no evidence in defence was led by the petitioners.

On appraisal of the material evidence available on record, the trial Court convicted and sentenced the accused/petitioners vide orders dated 14.11.2006 and 15.11.2006.

Thereafter, both the accused preferred an appeal, which was also upheld by the Lower Appellate Court vide order dated 02.06.2009.

Feeling aggrieved against the aforesaid orders, the petitioners preferred the present revision petition which is pending since 2009 and the sentence of both the petitioners was suspended by this Court vide order dated 13.07.2009.

Counsel for the petitioners has submitted that the allegations against the petitioner No.2 – Bajrang Dass is that he has forged the signatures of Harish Bhalla and petitioner No.1 – Ishwar Singh has identified him in the proceedings when the application/*superdaginama* was furnished for obtaining the car on *superdari* and, therefore, there is no evidence on record to show that the signatures were, in fact, put up by the petitioners. It is further submitted that during the investigation, the standard signatures of the petitioners were never taken and the same were never tallied with the hand-writing as shown in the *superdaginama* and, therefore, there is no evidence to show that it is the petitioner, who had signed in place of Harish Bhalla.

Counsel for the petitioners has further argued that the

petitioners are the first offenders and are facing the trial since 1998 and both the petitioners were on bail during the trial and their sentence was suspended before the Lower Appellate Court and subsequent thereto, they have not been found involved in any other case. It is further submitted that the petitioner No.1 – Ishwar Singh is aged about 45 years whereas petitioner No.2 – Bajrang Dass is aged about 50 years; they have their own family to support; they are not the previous convicts and they have shown substantive improvement in their character and during the said intervening period, the petitioners have faced the agony of protracted trial since 1998 i.e. for a period of more than 20 years, thus, it is prayed that sentence awarded to both the petitioners be reduced to the period already undergone by them i.e. 01 month and 26 days *qua* petitioner No.1 and 01 month and 20 days *qua* petitioner No.2 as per the Custody Certificate dated 07.08.2018.

Counsel for the petitioners has also relied upon the judgment ***“Ashok Kumar vs State of Haryana”, 2016(4) RCR (Criminal) 676*** and ***“Lal Singh vs State of Haryana”, 2017(2) Law Herald 1648***, to submit that in similar circumstances, the accused persons faced the trial for a considerable long time and their sentence was reduced and they were directed to undergo imprisonment to which they have already undergone.

Counsel for the State has, however, opposed the submissions made by counsel for the petitioners by stating that the petitioners have forged and fabricated the documents in order to obtain the *superdari* of the car and they have signed the documents as Harish Bhalla, who was the registered owner of the car and has, thus, tried to

create forged documents before the Court of Chief Judicial Magistrate where such documents were produced and the FIR was got registered by the Court.

Having heard counsel for the parties, this Court finds that no useful purpose will be served by sending the petitioners behind the bar once again after a long lapse of time as the petitioners have faced the agony of protracted trial for a period of more than 20 years and the ends of justice will be suitably met, if the substantive sentence of imprisonment awarded to both the petitioners by the trial Court and so modified by the Lower Appellate Court, is reduced to the period already undergone by them thereby enhancing the amount of fine imposed on them.

Considering the fact that petitioner No.1 – Ishwar Singh is aged about 45 years and petitioner No.2 – Bajrang Dass is aged about 50 years; they have their own family to support; they are not the previous convicts and they have shown substantive improvement in their character and during the said intervening period, the petitioners have faced the agony of protracted trial since 1998 i.e. for a period of more than 20 years and petitioner No.1 has undergone 01 month and 26 days whereas petitioner No.2 has undergone 01 month and 20 days, respectively as per the Custody Certificate dated 07.08.2018, the present revision petition is partly allowed.

The conviction of both the petitioners for offence punishable under Sections 419, 420, 467, 468 and 471 IPC is upheld and the substantive sentence awarded to both the petitioners is reduced to the period already undergone by them.

The fine of Rs.500/- (each) imposed upon the petitioners (already paid by them) is enhanced to Rs.20,000/- (each), which shall be deposited by them with the trial Court within a period of 02 months from today failing which they shall be required to undergo simple imprisonment for a period of 06 months.

With the aforesaid modifications, the revision petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

31.10.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No