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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2302-2015 (O&M)
Date of decision: August 03, 2018

Rajinder BembiPetitioner

Versus

Darshan Singh and anotherRespondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Raghav Panwar, Advocate
for the petitioner.

Mr. Tanvir Joshi, Advocate
for respondent No.1.

Mr. V.G. Jauhar, Senior DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(ORAL)

Vide judgment and sentencing order dated 09.07.2012, learned Judicial Magistrate Ist Class, Ludhiana, sentenced the petitioner-Rajinder Bembi in Criminal Complaint No.189/1 dated 31.05.2005 dated 09.07.2012, under Sections 406, 420, 467 and 468 of the Indian Penal Code (for short 'IPC') registered at Police Station Haibowal Ludhiana as under:-

Name	Under Sections	Sentence	Fine	In default of payment of fine
Rajinder Bembi	406, 467 and 468 IPC	Rigorous imprisonment for three years	Rs.3,000	Simple imprisonment for thirty days

Thereafter, petitioner filed an appeal which was dismissed by the learned Additional Sessions Judge, Ludhiana and the judgment passed by learned Judicial Magistrate Ist Class, Ludhiana was upheld.

The allegations levelled against the petitioner as shown in Para Nos.3 to 7 of complaint Annexure P-3 is as under:-

“3. That partnership business was to be carried on under the name and style of M/s Shree Chemical Industries, H.No.10869/1, Partap Nagar, St. No.9, Ludhiana and profits and losses after charring interest and remuneration as provided in the partnership deed was to divided between the partners as under:-

i) Sh. Darshan Singh 50%

ii) Sh. Rajinder Singh 50%

4. That after about one year of starting of day deed complainant Sh. Darshan Singh remained inactive in the partnership business, due to his family problems and for time being accused look after the affairs of the partnership business and also assured the complainant that he would maintain all the record of the business properly.

5. That by taking undue advantage of absence of complainant from partnership business due to his family problems accused look all the records of accounts and other records

6. That despite of bank account of the said partnership i.e. M/s Shree Chemical Industries, Ludhiana in the Union Bank of Indian accused fraudulently opened another bank account on the name and style of M/s Shree Chemical Industries in the Vijaya Bank, Ludhiana at his name and also operated from that account being a proprietor of the said Shree Chemical Industries and the account number of the said Shree Chemical Industries in Vijaya Bank is 2464.

7. That all the cheques regarding the income of the above said partnership were want for the clearing in the Vijaya Bank, Ludhiana by the accused Rajinder Bembi from where he started withdrawing the amount of the above said cheques.”

Initially, the petitioner as well as the complainant were the partners in the firm M/s Shree Chemical Industries, Ludhiana having equal shares. It is alleged that complainant-Darshan Singh being the partner was inactive and petitioner was looking after the affairs of the partnership firm and he took undue advantage in the absence of the complainant and did not

furnish true account and himself opened the account in the name and style of M/s Shree Chemical Industries in the Vijaya Bank, Ludhiana at his name.

After trial, petitioner was convicted and the learned Additional Sessions Judge, Ludhiana dismissed the appeal against his conviction order.

Now compromise has been effected before the Mediation and Conciliation Centre of this court.

Learned counsel for the petitioner submitted that petitioner has already undergone sentence of rigorous imprisonment for a period of 06 months and 11 days.

Keeping in view the nature of the offence, age and antecedents of the petitioner, I find it to be a fit case to take a lenient view and reduce the sentence awarded to the petitioner.

Keeping in view the facts and circumstances of the case, this court is of the opinion that ends of justice would be adequately meted out in this case, in case the sentence imposed upon the petitioner is ordered to be reduced to the period already undergone by him. The custody certificate placed on record transpires that petitioner has already undergone total sentence of 08 months and 11 days.

Consequently, conviction of the petitioner recorded by the courts below for the offences punishable under Sections 406, 467 and 468 of the Indian Penal Code is upheld. However, rigorous imprisonment of three years awarded to the petitioner stands reduced to the period already undergone by him i.e. 08 months and 11 days.

Disposed of accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

August 03, 2018
m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No