

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

**Criminal Revision 4536 of 2015
Date of Decision: October 9, 2018**

Hawa Singh

.....Petitioner

Versus

Block Development and Panchayat Officer and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. H.N. Sahu, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S.MANN, J. (Oral)

Convict Hawa Singh was tried in a private criminal complaint for the charge under Section 18(5) of the Haryana Panchayati Raj Act, 1994, hereinafter referred to as 'the Act'. Vide judgment and order dated 11/14.10.2013, learned Sub-Divisional Judicial Magistrate, Meham, convicted him for the aforementioned offence and sentenced him to undergo

rigorous imprisonment for a period of six months and to pay a fine amount of Rs.500/- and in default of payment of fine, to further undergo imprisonment for a period of one month.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 16.11.2015, learned Additional Sessions Judge, Rohtak, while finding no merit in the appeal dismissed the same. Still not satisfied, the petitioner preferred the present revision, which was admitted on 18.12.2015. Simultaneously, the sentence of imprisonment was suspended and he was ordered to be released on bail subject to furnishing of bonds.

According to the complainant, the petitioner was elected as Sarpanch of Gram Panchayat, Mokhra Roz. After the general elections were held in the year 2005, all the record of the Panchayat was handed over to him. The complainant wrote a letter to the petitioner to hand over the required record of the Gram Panchayat at the time of vigilance inquiry against Smt. Laxmi Devi and Daya Nand, Ex. Sarpanches, which were pending before the State Vigilance Bureau, Rohtak. However, the petitioner failed to hand over the record to the complainant inspite of issuance of aforementioned letter to him. The complainant, thereafter,

applied to the Chief Executive Officer, Zila Parishad, Rohtak for issuance of search warrants against the petitioner. The Station House Officer, Police Station Meham was directed to search the record of the Gram Panchayat and for taking the same in possession. The petitioner failed to hand over the record. In compliance of the search warrants. The police searched the house of the petitioner in the presence of the villagers, Tehsildar and Block Development and Panchayat Officer but could not find the required record. The petitioner avoided to hand over the same on the pretext that he had already handed it over to the Gram Sachiv, but he failed to produce any receipt to justify his claim. The petitioner willfully evaded handing over the record, which was required by the State Vigilance Police in inquiry against Ex. Sarpanches and, thus, committed the offence under Sections 18(5) and (6) of the Act.

After hearing learned counsel for the parties and on going through the evidence on the file, the learned Courts below convicted and sentenced the petitioner as mentioned above.

During the pendency of the revision, the petitioner has filed an application under Section 482 Cr.P.C. for placing

on record complaint dated 19.2.2008, letter dated 18.7.2008 and statement dated 22.7.2011 of the complainant before the trial Court. The said application was allowed and the aforementioned documents were taken on record as Annexures P1, P2 and P3.

According to the learned counsel for the petitioner, the petitioner had also filed a similar application before the learned lower appellate Court for bringing on record the aforementioned documents by way of additional evidence but the said application was never decided.

This Court has perused the record of the learned lower appellate Court and finds that the application filed by the petitioner for additional evidence was duly considered and dismissed on 16.11.2015. The said order was never challenged by him in the present revision, and, as such, no relief can be granted to him on the basis of the aforementioned three documents. As such, no case is made out for any interference in his conviction as recorded by the learned trial Court and upheld by the appellate Court.

As regards the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about ten years. He is more than sixty

years of age. When he was heard by the learned trial Court on the quantum of sentence, he had pleaded that he belonged to a poor family and the only bread winner. Further, he was a first offender.

As per the custody certificate produced by the learned State counsel, the applicant has undergone actual period of one month and four days. He is not shown to be either involved or convicted in any other case apart from the present case. He is on bail pursuant to the order dated 18.12.2015. There is no material on the record to indicate that he has misused the concession in any manner.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine amount can be suitably enhanced.

Resultantly, the conviction of the petitioner under Section 18(5) of the Haryana Panchayati Raj Act, 1994 is upheld. His substantive sentence of imprisonment is reduced

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to the one already undergone by him. However, fine of Rs.500/- imposed upon him is enhanced to Rs.5,000/-. The amount of fine be deposited by him in the Court of learned Chief Judicial Magistrate, Rohtak within three months from today, failing which, he shall be required to undergo simple imprisonment for one month.

The revision is, accordingly, disposed of.

October 9, 2018.
amit rana

(T.P.S. MANN)
JUDGE

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