

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

CRR No.4812 of 2016.

Decided on:- December 05, 2018.

Lakhwinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Ms. Surinder Kaur, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Ashish Bakshi, Advocate
for the complainant.

HARI PAL VERMA, J.

The petitioner has filed the present criminal revision against the judgment dated 04.11.2016 passed by learned Additional Sessions Judge, Jalandhar whereby his appeal against the judgment of conviction and order of sentence dated 11.03.2016 passed by learned Judicial Magistrate 1st Class, Jalandhar, was dismissed.

Briefly stated, FIR No.341 dated 19.10.2009 under Sections 420, 467, 468, 471 and 120-B IPC was registered against the petitioner and other co-accused at Police Station Division No.4, Jalandhar on the basis of criminal complaint No.1207 of 02.04.2009 filed by complainant Nasib Kaur widow of Satnam Singh. As per the complaint, in the year 1996, Punjab Government

had allotted the land measuring 5 Acre 2 Kanals situated at village Kassu, Tehsil Shahkot to her husband. Seven instalments were deposited by her husband. The land is comprised in Khatauni No.69. The husband of complainant expired in the year 2003 and since then, she is taking care of the land along with her brother Swaran Singh resident of village Jallowal Colony. However, said Swaran Singh with an intention to grab this land, got a false power of attorney registered qua the property in the year 2006 and sold away the same to some other party. He had also got the Khasra Girdawari for the year 2009 changed in his name, whereas the possession of the land is still continuing with the complainant. It was further alleged by the complainant that upon the orders of Tehsildar, Shahkot the Girdawari was changed into the name of the complainant. However, the accused were in collusion with each other to usurp the land of the complainant and are causing harassment to her. Therefore, a request for initiation of criminal proceedings against the accused was made.

On the basis of aforesaid complaint, an inquiry was conducted and it was opined that one forged power of attorney in collusion with the attesting witnesses had been created. Therefore, the recommendations duly supported by the opinion of the District Attorney Legal, the aforesaid F.I.R. was registered against petitioner Lakhwinder Singh and other co-accused, namely, Baljit Singh, Swaran Singh, Jagdish Mittal and Sukhwinder Singh. After registration of the FIR, investigation was carried out and the statements of witnesses were recorded. After completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the accused free of cost. Finding a prima facie case against the petitioner, they were charge-sheeted under Sections 420, 467, 468, 471 and 120-B IPC passed by the trial Court, to which they did not plead guilty and claimed trial. However, during the pendency of trial, accused Jagdish Mittal died and proceedings against him were abated, whereas another accused, namely, Sukhwinder Singh was declared as a proclaimed offender.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 11.03.2016 convicted the petitioner and co-accused Baljit Singh for the commission of offence punishable under Sections 420, 467, 468 and 120-B IPC, whereas accused Swaran Singh was acquitted of the charge levelled against him. Vide separate order dated 11.03.2016, learned trial Court sentenced the petitioner and co-accused Baljit Singh to undergo imprisonment as under:

<u>Offence</u>	<u>Sentence</u>
420 IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.250/- and in default thereof, to further undergo simple imprisonment for a period of 15 days.
467 IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.250/- and in default thereof, to further undergo simple imprisonment for a period of 15 days.
468 IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.250/- and in default thereof, to further undergo simple imprisonment for a period of 15 days.
120-B IPC	Rigorous imprisonment for a period of six monthsh and to pay a fine of Rs.250/- and in default thereof, to further undergo simple imprisonment for a period of 15 days.

It was, however, ordered that all the aforementioned sentences shall run concurrently.

Feeling aggrieved, the petitioner and co-accused Baljit Singh preferred an appeal against the aforesaid judgment of conviction and order of sentence before the Court of Session. However, vide judgment dated 04.11.2016, learned Additional Sessions Judge, Jalandhar dismissed the said appeal.

It is in the aforesaid circumstances, petitioner Lakhwinder Singh has filed the present criminal revision.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner, but restricted his arguments on the point of quantum of sentence awarded to the petitioner.

He has argued that as against the awarded sentence of 3 years, the petitioner remained in custody for more than 9 months i.e. w.e.f. 04.11.2016, when his appeal was dismissed by the appellate Court till 24.08.2017, when interim bail was granted to him by this Court. He has contended that the petitioner is a first time offender and is the only bread earner of his family. He has been suffering the agony of criminal proceedings since 19.10.2009 i.e. the date of registration of the FIR in question. Even otherwise, the matter has already been compromised between the parties vide compromise deed dated 24.06.2017. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 420, 467, 468 and 120-B I.P.C. The appellate Court has also dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioner under Sections 420, 467, 468 and 120-B I.P.C., which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, the custody certificate already placed on record by learned State counsel shows that as against the awarded sentence of 3 years, the petitioner has already undergone actual imprisonment for a period of more than 9 months. He has been facing the agony of criminal proceedings since 19.10.2009 i.e. the date when the FIR in question was registered against him. No other case has been pointed out against the petitioner. Moreover, the matter has been compromised between the parties vide compromise deed dated 24.06.2017.

Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of more than 9 months, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, there will be no change in the sentence of fine awarded to the petitioner.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

December 05, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No