

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

**CRM No. 37259 of 2017 in/and
CRR No. 1660 of 2017 (O & M)
Decided on: 8.8.2018**

Gurdeep Singh and others **.....Petitioners**

Versus

State of Punjab and another **.....Respondents**

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Ms. Aashna Gill, Advocate, for the petitioners

Mr. Hittan Nehra, Addl. AG, Punjab

Rajbir Sehrawat, J.(Oral)

This petition has been filed challenging the order dated 7.4.2017 passed by the learned Sessions Judge, Sri Muktsar Sahib, whereby, the appeal filed by the present petitioners against the judgment of conviction and order of sentence dated 15.10.2014, passed by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, has been dismissed.

By the above said order of the trial Court, the petitioners were convicted under Sections 467, 468 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for 3 years and fine of Rs.300/- under Sections 467/34 IPC, and rigorous imprisonment for 2 years and fine of Rs.200/- under Sections 468/34 IPC with default clause.

The allegations in the present case against the petitioners are that the father of the complainant was the owner of the land measuring about 2 kanals and he was not having any other issue except the complainant. Father

of the complainant expired on 15.8.1970 and thereafter, the complainant had become owner of the property. The present petitioners tried to usurp the property of the complainant by executing a sale deed in the name of petitioner No.1 by impersonating the complainant. Therefore, the present case was initiated against all the petitioners. However, during the pendency of the trial itself, the possession of the property had been restored to the complainant. This fact find mentioned in the order of the trial Court as well. Learned counsel for the petitioners has also submitted that the petitioners are ready even to get the sale deed cancelled, although otherwise also the same has been rendered ineffective in the present case.

At the outset, learned counsel for the petitioners has submitted that she does not wish to press the present petition qua the challenge to the order of conviction. She restricts the challenge in the present petition to the quantum of sentence only and submits that sentence of the petitioners be reduced to the minimum level. It is further contended that the petitioners have undergone more than one year, each, of the sentence.

It is contended by learned counsel for the petitioners that the petitioners are the first offenders; they are the only bread earners of their family. It is further submitted that the petitioners have faced the agony of the trial for a long time. In the end it is submitted that the petitioners have shown reformation since they have earned remissions even during their custody. Still further, it is submitted that the facts and circumstances of the case show that the alleged offence, even if taken to be committed by the petitioners, has since been undone; because the property has been restored to the complainant.

Learned State counsel has produced the custody certificate of the

petitioners, which shows that the petitioners have undergone 1 year and 25 days of actual sentence. Besides this, they have earned remission of 2 months and 11 days while remaining in jail. Custody certificate also do not reflect the involvement of the present petitioners in any other case.

Therefore, the facts and circumstances of the case show that the matter seems to have been settled by the parties, since the possession of the alleged property has already been restored to the complainant. In the present case, notice was issued to the complainant also. However, despite service, she has chosen not even to contest the present petition. The petitioners have already undergone more than one year of sentence out of the total sentence of 3 years. The custody certificate also shows that the petitioners have maintained absolutely good conduct in the jail. They are also shown to be the first offenders.

In view of the above mentioned facts and circumstances of the case, it would not be improper and unjustified if the petitioners are considered for reduction of the sentence, as prayed by the counsel.

Accordingly, it is ordered that while order of conviction is maintained, the sentence of the petitioners is reduced to the sentence already undergone by them; respectively. The present petition is partly allowed in the above terms.

The petitioners be released from custody, if they are not required in any other case.

(RAJBIR SEHRAWAT)
JUDGE

8.8.2018

Ashwani

Reportable/Reasoned : Yes/No
Speaking/Non-speaking : Yes/No