

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1767-2017(O&M)
Date of decision:-26.2.2018

Gurcharan Singh
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.N.S. Dadwal, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

Accused Gurcharan Singh booked in FIR No.85 dated 4.8.2013 for the offences under Sections 406/420 IPC, registered with Police Station Sandaur was tried by Judicial Magistrate Ist Class, Malerkotla, who vide judgment dated 6.1.2017 convicted and sentenced him as under:

Under Section	Sentence
420 IPC	Rigorous imprisonment for two years and fine of Rs.1,000/- in default of fine, the accused is liable to further undergo rigorous imprisonment of two months.
406 IPC	Rigorous imprisonment for two years.

Both the sentences were ordered to run concurrently.

Feeling dissatisfied with the said judgment of his conviction and sentence, the accused brought an appeal before the Court of Sessions, which was assigned to Additional Sessions Judge, Sangrur, who vide judgment dated 15.4.2017 set aside the conviction of accused for the offence under Section 406 IPC, whereas upheld it as regards offence under Section 420 IPC. He had modified the sentence part observing that purpose of sentence shall be served if the appellant/accused complies with the following order by appearance before the learned Trial Court on or before 15.5.2017:

- (1)the appellant-accused will deposit an amount of Rs.80,000/- for payment as compensation to Sukhdev Singh son of Jang Singh resident of Sandaur, Jagsir Singh son of Raj Singh, resident of village Farwahi Police Station Sandaur, Baljinder Singh son of Balwant Singh resident of Gurbax Pura, Police Station Sherpur, Ranjit Singh son of Dalbara Singh, resident of Dhaula, Police Station Tapa, District Barnala in equal shares;
- (2)Will execute the bond of probation in the sum of Rs.20,000/- for a period of one year with the undertaking that he shall be of good behavior and shall not repeat such an offence again;
- (3)the fine already paid by him shall stand converted to the costs of litigation;

(4) failing which the appellant-accused under Section 420 IPC will undergo the sentence of Rigorous imprisonment for a period of two years with fine of Rs.1000/- and in default of payment of fine for further Rigorous Imprisonment for a period of two months. The fine has already been paid by the appellant-accused in the Trial Court on 6.1.2017. The period of custody already passed by the appellant-accused in this case shall be set off with the period of substantive sentence.

With that the appeal was disposed of.

The petitioner has filed the revision petition challenging the judgment passed by the trial Court as well as Appellate Court stating that the Courts below have failed to consider the fact that with the intervention of respectable persons of both the parties, the matter was settled amicably and in that regard, a compromise dated 31.10.2013 was executed, duly signed by the parties; that the complainant had also furnished an affidavit dated 14.11.2013 that all the matters had been sorted out and this is so mentioned in the order granting regular bail to the petitioner; that he had moved a petition in this Court for quashing of FIR on the basis of compromise wherein while issuing notice of motion, parties were directed to get their statements recorded before the Illaqa Magistrate; that the parties had accordingly got their statements recorded; that report was sent by the Court concerned, however, the Court had dismissed the petition on

the ground that as the offences under Sections 406 and 420 IPC were compoundable, the parties may approach the trial Court but when the parties appeared before the trial Court, the complainant backed out of the compromise, therefore, the trial commenced and petitioner was convicted and sentenced; that in the trial Court, the accused had examined Manjit Singh as DW1, an attesting witness of the compromise to prove the compromise but the Courts below did not pay any attention towards that.

Learned counsel for the revisionist had advanced arguments on these very lines.

Whereas, learned State counsel has opposed the revision petition saying that before the trial Court, the prosecution had led evidence so had the accused and thereafter the trial Court came to the conclusion that the prosecution had successfully proved its charge against the accused for the offences under Section 420 and 406 IPC, therefore, he was convicted and no fault can be found with the judgments passed by the Courts below.

After hearing learned counsel for the parties, I find that as per own case of the revisionist, the complainant did not stick to the compromise before the trial Court or in the Appellate Court. Merely at the asking of the revisionist/convict, it cannot be accepted that compromise had in fact taken place. If the complainant does not come forward and admit the compromise before this Court, it is to be taken that no such compromise is there. Furthermore, the complainant has not complied with the directions issued by learned Additional Sessions Judge, Sangrur in judgment dated 15.4.2017. He has failed to deposit an amount of

Rs.80,000/- on or before 15.5.2017, therefore, the default clause would come into operation and 50% of the amount so deposited by him was beyond that date, which does not save him from the default clause.

In view of the above, I find no illegality or infirmity in the impugned judgment passed by the Court below and the revision is found to be without any merit and is dismissed accordingly.

Necessary information be sent to the quarter concerned.

26.2.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No