

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

Date of decision: 14.05.2018

1. CRR-2537-2017 (O&M)

Kulwant Kaur and another

... Petitioners

Vs.

State of Punjab and another

... Respondents

2. CRR-3168-2017 (O&M)

Gurbachan Singh and another

... Petitioners

Vs.

State of Punjab and another

... Respondents

3. CRR-2641-2017 (O&M)

Kamaljeet Singh and another

... Petitioners

Vs.

Jawala Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Randhawa, Advocate
for the petitioners (in CRR-2537 & 3168-2017).

Mr. Nand Lal Sammi, Advocate
for the petitioner (in CRR-2641-2017).

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Mr. Sandeep Jain, Advocate
for respondent No.2 (in CRR-2357 & 3168-2017) and
for respondent No.1 (in CRR-2641-2017).

ARVIND SINGH SANGWAN, J. (ORAL)

This order shall dispose of abovementioned three revision petitions arising out of same impugned judgment and order of sentence.

Prayer in these revision petitions is for setting aside the judgment of conviction dated 18.12.2014 passed by the Judicial Magistrate 1st Class, vide which the petitioners were convicted under Sections 419, 467, 468, 471 of the Indian Penal Code (for short 'IPC') read with Section 120-B IPC and order of sentence of even date i.e. 18.12.2014, they were ordered to undergo simple imprisonment for 02 years with a fine of Rs.1,000/- each and in default of payment of fine, to further undergo S.I. for one month as well as the judgment dated 12.07.2017, vide which the lower appellate Court has dismissed the appeal filed by the petitioners.

Brief facts of the case are that complainant Jawala Singh filed the complaint against the petitioners with the allegations that on 13.08.2005, accused Gurbachan Singh, Kirpal Kaur, Sukhwinder Kaur and Kulwant Kaur through their attorney Karanjit Singh had agreed to sell land measuring 04 bighas 11 biswas vide agreement dated 13.08.2005 to the complainant and received Rs.5.50 lacs as earnest money. It is further stated in the complaint that later on it came to notice of the complainant that the land was already sold to some other persons and on this pretext, the complaint was filed.

The trial Court convicted the petitioners and held them guilty of offences punishable under Sections 419, 467, 468, 471 IPC read with Section 120-B IPC and sentenced them to undergo simple imprisonment for a period of 02 years with a fine of Rs.1,000/- each. The appeal filed by the petitioners was dismissed by the lower appellate Court.

During pendency of the petitions, all the petitioners were granted the concession of suspension of sentence. Thereafter, vide order dated 21.03.2018, the complainant was directed to appear before the Mediation and Conciliation Centre of this Court for recording his statement in support of the compromise effected between the parties and as per report dated 28.03.2018 submitted by the Mediator, Jawala Singh had appeared and made a statement that he had filed the present complaint against the petitioners and they were convicted by the trial Court. It is further stated that Jawala Singh has compromised the matter with accused persons in pursuance to the compromise dated 23.08.2017 (Annexure P-6) and compromise has been effected voluntarily and without any coercion and he is bound by the terms and conditions of the compromise. It is further stated that in pursuance of the compromise, the petitioners have got the sale deed of the land executed in his favour and there is no claim left against the petitioners and he has no objection if they are absolved from their criminal liability.

Learned counsel for the petitioners submits that since the petitioners have undergone substantive sentence, the sentence awarded by the trial Court be reduced to the period already undergone by them.

A perusal of the custody certificates filed by learned State counsel in the Court today shows that petitioner Kulwant Kaur & Sukhwinder Kaur, petitioners in CRR-2537-2017 and Gurbachan Singh and Daljit Kaur, petitioners in CRR-3168-2017 have already undergone 02 months and 29 days of actual sentence. Kamaljit Singh, petitioner in CRR-2641-2017, has undergone 02 months and 27 days of actual sentence.

Learned counsel for respondent No.2-complainant has not

disputed that the compromise has been compromised in totality and nothing is due between the petitioners and the complainant with regard to said agreement to sell.

After hearing learned counsel for the parties, in view of the judgment of the Hon'ble Supreme Court in **Ishwar Singh Vs. State of Madhya Pradesh, 2009 (1) RCR (Criminal) 1**, these three revision petitions are partly allowed. The judgment of conviction dated 18.12.2014 and sentence of fine are upheld, however, sentence awarded by the trial Court to the petitioners is reduced to the period already undergone by the petitioners, in view of the compromise effected between the parties that they have decided to resolve their dispute and the petitioners have already executed the sale deed in favour of the complainant in pursuance of the agreement to sell, which was root cause for lodging the complaint against the petitioners and also in view of the fact that petitioners Gurbachan Singh and Kamaljit Singh are aged persons and three other petitioners namely Sukhwinder Kaur, Kulwant Kaur and Daljit Kaur are the ladies.

The petitioners are directed to pay the fine, within a period of two months from today with the trial Court/Chief Judicial Magistrate/Illaq Magistrate, if the same is not already paid.

With the aforesaid modifications, the aforesaid three revision petitions are disposed of.

[**ARVIND SINGH SANGWAN**]
JUDGE

14.05.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No