

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

CRR-2621-2017 (O&M)

Date of Decision:-1.12.2018

Gurmit Kaur

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Nakul Sharma, Advocate for
Mr. Himanshu Puri, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioner assails judgment dated 5.7.2017 passed by learned Additional Sessions Judge, Kapurthala, whereby the conviction of the petitioner as recorded by learned Judicial Magistrate 1st Class, Kapurthala for offence punishable under Section 420 read with Section 34 of Indian Penal Code, 1860, has been upheld.

The allegations, in nutshell, against the petitioner Gurmit Kaur, are that she had approached the complainant and represented that they are sending people abroad through travel agent and the complainant being taken in by the said representation entered into a deal with the petitioner for a sum of ₹10 lacs so as to send the complainant to England. An amount of ₹1 lac and passport of the complainant was handed over to the petitioner. Subsequently, the petitioner again visited the complainant's village alongwith her son Varinder @ Babu and Madan Lal, Travel Agent and another amount of ₹1 lac was paid to them. Thereafter, the complainant was

taken to Delhi from where he was sent to Hyderabad, where he stayed in the house of Mohan Lal and where it was told to the complainant that his visa was ready and a demand of ₹8 lacs was raised. The complainant after arranging for the said amount paid the same to the accused.

It is the case of prosecution that the accused despite having taken the said amount neither sent the complainant abroad nor returned back his amount. The prosecution in order to establish its case examined PW-1 Kirpa Singh, PW-2 Gurmukh Singh, Retired Inspector, PW-3 Rattan Singh and PW-4 Gurmit Singh. It was with the aid of an application filed under Section 319 Cr.P.C. that Mohan Lal and Madan Lal were summoned, but since their presence could not be secured, they were declared proclaimed offenders.

The learned trial Court, upon appraisal of the evidence on record has found the petitioner and co-accused Varinder Singh guilty for having committed offence punishable under Section 420 read with Section 34 of Indian Penal Code, 1860.

Upon an appeal having been filed by the accused, the co-accused Varinder Singh was acquitted whereas conviction of petitioner was affirmed.

Having heard the learned counsel for the petitioner and having perused the impugned judgment, I do not find any infirmity in the same as far as conviction of the petitioner is concerned and the same is hereby upheld. As regards the quantum of sentence, I find that the petitioner, who is a lady, has already undergone an actual custody of 1 year, 2 months and 1 day and has also earned remissions. The total sentence of imprisonment

undergone including remissions works out to 1 year, 5 months and 10 days, as per custody certificate dated 30.11.2018.

Bearing the aforesaid custody period in mind and also that the petitioner is a lady and is not stated to be a previous convict, in my opinion, there is room for reduction of sentence of imprisonment. The petition, as such, is partly accepted to the limited extent of quantum, which is reduced from 2 years to the one already undergone, while the findings regarding conviction shall remain unaltered.

The petition stands partly allowed in the above mentioned terms.

1.12.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No