

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

CRR No.3192 of 2017 (O&M)
Decided on:-July 19, 2018.

Bhupinder Jeet Singh and another

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. T.S. Sangha, Senior Advocate with
 Mr. J.L. Malhotra, Advocate
 for the petitioners.

Mr. Anmol Malik, AAG, Haryana.

HARI PAL VERMA, J.

Petitioners, namely, Bhupinder Jeet Singh and Om Parkash have filed the present revision petition against the judgment of conviction dated 18.08.2017 and order of sentence dated 23.08.2017 passed by learned Additional Sessions Judge, Kurukshetra whereby the appeal filed by the State against the judgment of acquittal dated 02.07.2014 passed by learned Judicial Magistrate 1st Class, Kurukshetra, was allowed.

Briefly stated, the FIR No.201 dated 20.12.2008 under Sections 409, 467 and 468 IPC was registered against the petitioners-accused at Police Station Ladwa, District Kurukshetra on the allegations that on 15.07.2008, complainant Rajwant Singh son of Gian Singh, resident of village Niwarsi, Block Ladwa, District Kurukshetra, gave a complaint to the Deputy

Commissioner, Kurukshetra that he is a resident of the said village. Accused Bhupinder Jeet Singh being Sarpanch of the village is misusing his position. Some residents of the village, namely, Jogindero wife of Chamela Ram, Dalip Singh son of Gahan Singh, Natha Singh son of Basakha Singh, Manjeet Kaur wife of Ajit Singh, Rishpal Singh son of Jawahar Mal, Atma Singh son of Sawan Singh and Gurmukh Singh son of Jetha Singh have already expired on the dates mentioned in the said complaint. However, by forging the thumb impressions and signatures of the said persons, accused Bhupinder Jeet Singh is grabbing the amount of their old age pension.

The said complaint was sent by the Deputy Commissioner, Kurukshetra to the District Development and Panchayat Officer, Kurukshetra. A copy thereof was sent to District Social Welfare Officer, Kurukshetra to conduct an enquiry. Thereafter, the said authority conducted an enquiry in the matter and found accused Bhupinder Jeet Singh of having embezzled Rs.21,350/- in the name of Jogindero wife of Chamela Ram, Dalip Singh son of Gahan Singh, Natha Singh son of Basakha Singh, Manjeet Kaur wife of Ajit Singh, Rishpal Singh son of Jawahar Mal, Atma Singh son of Sawan Singh and Gurmukh Singh son of Jetha Singh. The authority also submitted a report in this regard. Accordingly, a letter was sent to SHO, Police Station, Ladwa, District Kurukshetra to register an FIR against the accused.

After the registration of the FIR, investigation machinery was set into motion. The relevant record in respect of the above embezzlement was taken into police possession and petitioners-accused were arrested.

After completion of investigation, Challan was presented in the Court. The copies of Challan as envisaged under Section 207 Cr.PC were supplied to the accused free of costs. Finding a prima-facie case, the accused were charge sheeted for the commission of offence punishable under Sections 409, 467 and 468 IPC to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 02.07.2014, acquitted the petitioners-accused of the charge levelled against them by extending them the benefit of doubt.

Aggrieved against the aforesaid judgment of acquittal dated 02.07.2014 passed by the trial Court, the respondent-State filed an appeal before the Court of Session. Vide impugned judgment dated 18.08.2017, learned Additional Sessions Judge, Kurukshetra set aside the judgment passed by the trial Court, allowed the appeal and convicted the petitioners-accused under Sections 409, 467 and 468 IPC. Vide separate order dated 23.08.2017, learned appellate Court sentenced the petitioners-accused as under:

<u>Offence</u>	<u>Sentence</u>
409 IPC	Rigorous imprisonment for three years and to pay fine of Rs.3,000/- each and in default of payment of fine to further undergo rigorous imprisonment for 30 days each.
467 IPC	Rigorous imprisonment for three years and to pay fine of Rs.3,000/- each and in default of payment of fine to further undergo rigorous imprisonment for 30 days each.
468 IPC	Rigorous imprisonment for one year and to pay fine of Rs.1,000/- each and in default of payment of fine to further undergo rigorous imprisonment for 10 days each.

It was further ordered that all the sentences imposed on the convicts shall run concurrently.

It is in the aforesaid circumstances, the petitioners have filed the present revision petition.

At the outset, Mr. Sangha, learned senior counsel for the petitioners submitted that the petitioners are not challenging the conviction on merits, however, prayed that some lenient view may be taken qua quantum of sentence.

He has further contended that petitioner Bhupinder Jeet Singh is Ex-Sarpanch of the village and is 57 years of age, whereas petitioner Om Pakash is Lambardar of the village and is 67 years of age. The petitioners have already deposited the pointed amount of Rs.21,350/-, at the time of seeking anticipatory bail. They are old persons and are not previous convicts. As against the awarded sentence of three years, the petitioners have already undergone imprisonment for a period of 1 year and 21 days including remission of 1 month and 20 days. The petitioners have been suffering the agony of criminal proceedings since 20.12.2008 i.e. the date when the FIR in question was registered against them. Thus, he has prayed that the sentence of the petitioners may be reduced to the period already undergone by them.

On the other hand, learned State counsel has not disputed the custody of the petitioners, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioners. However, he states that there is no other case against the petitioners. Custody certificates filed by learned State counsel in Court, are taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that learned appellate Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 409, 467 and 468 IPC. There is no illegality or perversity in the findings given by learned appellate Court which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the impugned judgment of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, admittedly, the petitioners have already undergone actual imprisonment for more than 1 year and 21 days including remission and no other case is pending against them. They have been facing the agony of criminal proceedings since 20.12.2008 i.e. the date when the FIR in question was registered against them.

Moreover, the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from the judgment of Hon'ble Supreme Court in the case of ***Karamjit Singh Versus State (Delhi Admn.), 2001(9) SCC 161***, wherein the following observations were made:

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of

committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Therefore, taking into account the protracted trial, antecedents of the petitioners, coupled with the fact that they have already suffered incarceration for a period of more than 1 year and 21 days including remission, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of fine of Rs.5,000/- each under Section 409 IPC, fine of Rs.5,000/- each under Section 467 IPC, and fine of Rs.2,000/- each

under Section 468 IPC. Thus, on deposit of increased amount of fine of Rs.5,000/- each, the petitioners be released forthwith, if not required in any other case.

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

July 19, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No