

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

(1) CRR No.4897 of 2017 (O&M).  
Decided on:-July 27, 2018.

Nathi Ram.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

(2) CRR No.371 of 2018 (O&M).

Gobind Ram.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

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Present:- Mr. A.S. Tewatia, Advocate  
for the petitioner in CRR No.4897 of 2017.

Mr. Deepak K. Bartia, Advocate  
for the petitioner in CRR No.371 of 2018.

Mr. Anmol Malik, AAG, Haryana  
for the respondent-State.

**HARI PAL VERMA, J.**

This order shall dispose of the aforementioned two criminal  
revision petitions as the same have arisen from a common FIR No.65 dated

13.02.2009 under Sections 419, 420, 467, 468, 471 and 120-B IPC registered at Police Station City Jagadhri. Moreover, both the petitions have been filed against judgment dated 13.12.2017 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, whereby two appeals filed by the petitioner separately against the judgment of conviction dated 19.03.2015 and order of sentence dated 21.03.2015 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Yamuna Nagar at Jagadhri, were dismissed with modification in the order of sentence.

However, for convenience and clarity, the detailed order is being passed in **CRR No.4897 of 2017** titled as ***Nathi Ram Versus State of Haryana.***

Briefly stated, the FIR in question was registered on the basis of complaint moved by complainant Sandeep Kumar, wherein he alleged that he is a resident of village Bhud Kalan and is posted as Junior Engineer, Hydrel Project, Bhud Kalan. He purchased a plot No.24 measuring in North 34 feet, South 34 feet, East 66 feet and West 66 feet measuring 250 square yards-18 Marla, Tadadi 4 Kanal 9 Marla, Khewat No.1278 min, Khatauni No.1571, Khasra No. 16//17/1, H.B. No. 400, situated in Amar Vihar Colony, Jagadhri from its original owner Smt. Santosh Devi wife of Sh. Prem Parkash, resident of New Bazar Gali, Arya Samaj, Delhi for total sale consideration of Rs.87,500/- by way of registered sale deed dated 09.08.2004 and its mutation No. 8469 dated 18.08.2004 was also sanctioned in his favour.

The complainant is in possession of the said plot since 09.08.2004. However, when on 25.01.2009, he was constructing a boundary

wall on the said plot and digging the land with the help of labourers, in the meanwhile accused Ashok Kumar reached the spot along with 4-5 persons and claimed to be the owner of that plot. The complainant replied that he should talk to him directly after sending other persons. Accused Ashok Kumar told him that he is Manmohan Sharma and he had purchased that plot and also showed him a registered sale deed dated 31.12.2008 vide photocopy No.5210. He asked him that the photo of his sale deed does not match with him (Ashok Kumar). Then Ashok Kumar told him that photo on sale deed is of his brother Manmohan Sharma. He asked Ashok Kumar if he had got the mutation to this land from Patwari, then he replied that he had forgotten it at all. He matched the photo of accused Santosh Devi on his registered sale deed and found to be different on the sale deed of Ashok Kumar. The complainant suspected that all the accused have forged registry of above said plot No.24.

Statements of the witnesses were recorded and after completion of investigation, Challan under Section 173 Cr.P.C. was presented in the Court against the petitioners as well as two other co-accused, namely, Manmohan Sharma and Ashok Kumar. However, accused Manmohan Sharma was declared as a proclaimed offender vide order dated 28.02.2014 passed by the trial Court.

Copies of Challan, as envisaged under Section 207 Cr.P.C., were supplied to the accused. Finding a prima-facie case against the petitioners and the other co-accused, they were charge sheeted under Sections 419, 420, 467, 468, 471 and 120-B IPC to which they did not plead guilty and claimed trial.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 19.03.2015, held the petitioners guilty for commission of offence under Sections 419, 467, 468 and 471 read with Section 120-B IPC, but acquitted co-accused Ashok Kumar of the charges levelled against him. Vide separate order dated 21.03.2015 passed by the trial Court, the petitioners were sentenced as under:

| <u>Offence</u>                  | <u>Sentence</u>                                                                                                                                                                   |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 419 read with Section 120-B IPC | Simple imprisonment for a period of three years each.                                                                                                                             |
| 467 read with Section 120-B IPC | Simple imprisonment for a period of three years and to pay a fine of Rs.4,000/- each and in default thereof, to further undergo simple imprisonment for a period of 15 days each. |
| 468 read with Section 120-B IPC | Simple imprisonment for a period of three years and to pay a fine of Rs.4,000/- each and in default thereof, to further undergo simple imprisonment for a period of 15 days each. |
| 471 read with Section 120-B IPC | Fine of Rs.2,000/- each and in default thereof, to further undergo simple imprisonment for a period of 15 days each.                                                              |

It was further ordered that the entire amount of fine should be released to the complainant as compensation for the loss suffered by him at the hands of the convicts. However, all the substantive sentences awarded to the convicts were ordered to run concurrently.

Aggrieved against the aforementioned judgment and order passed by learned trial Court, the petitioners had preferred an appeal before the Court of Session, but the same were also dismissed by learned Additional

Sessions Judge, Yamuna Nagar at Jagadhri vide judgment dated 13.12.2017, however, with modification in the order of sentence to the effect that the sentence of simple imprisonment for a period of three years under Sections 419, 467 and 468 IPC is reduced to simple imprisonment for a period of two years. However, it was ordered that there shall be no change in the sentence of fine awarded under Sections 467, 468 and 471 IPC.

It is in these circumstances the petitioners have approached this Court by filing the present revision petitions.

At the outset, learned counsel for the petitioners have not challenged conviction of the petitioners and have confined their respective arguments qua the quantum of sentence only. As against the awarded sentence of two years, petitioner Nathi Ram has already undergone imprisonment for a period of 7 months and 21 days including remission, whereas petitioner Gobind Ram has undergone imprisonment for a period of 7 months and 26 days including remission.

Learned counsel for the petitioners have further contended that the petitioners are first time offenders and have their respective families to look after. The petitioners have been suffering the agony of criminal proceedings since 13.02.2009, when the FIR in question was registered against them. Thus, they have prayed for reduction of the sentence of petitioners to the period already undergone by them.

Learned State counsel, on the other hand, has not disputed the custody of the petitioners, but opposed the plea of taking a liberal view, as

raised by learned counsel for the petitioners. However, he states that there is no other case against them.

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 the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 419, 467, 468 and 471 read with Section 120-B IPC. The appellate Court has also dismissed their appeal with modification in the order of sentence. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners have not assailed the judgments of conviction and have, rather, restricted their respective arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as per the custody certificates, petitioner Nathi Ram has already undergone imprisonment for 7 months and 21 days including remission, whereas petitioner Gobind Ram has undergone imprisonment for 7 months and 26 days including remission. The petitioners have been suffering the agony of criminal proceedings for the last more than 9 years as the FIR in question was registered against them on 13.02.2009. They are the first time offenders and no other case is pending against them.

Therefore, taking into account the protracted trial, period of custody of the petitioner as well as antecedents of the petitioners, 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 Rs.8,000/- each under Section 467 read with Section 120-B IPC, Rs.8,000/- each under Section 468 read with Section 120-B IPC and Rs.4,000/- each under Section 471 read with Section 120-B IPC. In this way, the total amount of fine of Rs.10,000/- each, as imposed by learned trial Court and affirmed by learned appellate Court is increased to the total amount of fine of Rs.20,000/- each.

Ordered accordingly.

Perusal of the order of sentence dated 21.03.2015 passed by learned trial Court reveals that the fine imposed by the trial Court has already been paid by the petitioners.

The sentence awarded to petitioner Nathi Ram has already been suspended by this Court vide order dated July 06, 2018. Therefore, petitioner Nathi Ram is directed to deposit the increased amount of fine of Rs.10,000/- with the Court of CJM/Duty Magistrate, Yamuna Nagar at Jagadhri within a period of one month from today, failing which the revision petition shall stand dismissed in toto qua him.

Petitioner Gobind Ram be released forthwith, if not required in any other case, on his depositing aforementioned increased amount of fine of Rs.10,000/-.

It is made clear that in case the petitioners fail to deposit the increased amount of fine of Rs.10,000/- each, as imposed by this Court, they shall be liable to undergo the remaining part of their respective sentence.

With the aforesaid modification in the order of sentence, the present revision petitions are dismissed.

Photocopy of this order be placed on the file of other connected case.

**July 27, 2018**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No