

258 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-31276-2018 in/and
CRR No.2994 of 2018(O&M)
Date of decision :29.10.2018

Dalbir Chand

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Amandeep Singh Manaise, Advocate, for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

RAJBIR SEHRAWAT, J. (ORAL)

This is a revision petition for challenging the judgment/order dated 08.08.2018 passed by learned Additional Sessions Judge, Gurdaspur, whereby, the judgment and order dated 16.12.2016 passed by learned Judicial Magistrate 1st Class, Gurdaspur has been upheld, thereby upholding the conviction and sentence of the petitioner for rigorous imprisonment for 03 years for the offence punishable under Section 420, 120-B of IPC.

The facts leading to the registration of the present case against the petitioner are that the petitioner was the Ex-Sarpanch of the village. He introduced the petitioner and some other persons to one Kulbhushan Khosla (Retd. Deputy Commandant, CRPF), for recruitment of the candidates and received Rs.2 to 3 lacs from each of the candidate. The petitioner gave the documents and money to Kulbhushan Khosla. The said Kulbhushan Khosla had given cheques of the equivalent amount to the complainant, as security, in case the name of the candidate is not found mentioned in the recruitment list, as per promise. Later on, the above said Kulbhushan Khosla handed

over the letters of appointment which were later on found to be fake. This resulted in registration of the case against the petitioner, Kulbhushan Khosla, his wife as well as against his son.

The prosecution led its evidence. The trial Court found the allegations against the petitioner to be proved as per law and convicted the petitioner for the offence punishable under Section 420 read with Section 120-B of IPC. On conviction, the trial Court sentenced the petitioner for 03 years rigorous imprisonment along with fine.

The above said Kulbhushan Khosla expired during the pendency of the trial. Wife of the said Kulbhushan Khosla was acquitted by the trial Court and his son, being a juvenile, was acquitted by a Juvenile Court.

Aggrieved against the judgment of conviction and order of sentence passed by the trial Court, the petitioner preferred the appeal before the learned Additional Sessions Judge, Gurdaspur. However, that appeal was also dismissed by the Appellate Court on 08.08.2018. Accordingly, the present revision petition has been filed by the petitioner.

The previous order passed by this Court shows that the petitioner has restricted the present petition qua quantum of sentence only.

It is contended by counsel for the petitioner that although the petitioner has good case on merits, however, since the petitioner has already undergone about more than 01 year, therefore, the revision petition be considered for reduction of sentence only.

To support his submission qua reduction of sentence, counsel for the petitioner has submitted that the petitioner is the first offender. He is 46 years of age and sole bread earner of the family. It is further

contended that the petitioner has shown sufficient tendency to reform himself; because the petitioner has maintained good behaviour even during the custody. Due to this very fact, the petitioner has earned remissions during the period of his imprisonment.

On the other hand, learned counsel for the State submits that since the petitioner has already conceded on conviction, therefore the petitioner does not deserve the reduction in the sentence because the petitioner has committed heinous crime qua the unemployed persons. There are no extenuating circumstances to justify the reduction of the sentence. However, the counsel for the State has placed on record the custody certificate of the petitioner, which shows that the petitioner has undergone 01 year and 22 days of total sentence including remission. The custody certificate does not point out any other case; pending or decided; against the petitioner.

Having heard counsel for the parties, this Court finds that the Courts below have not committed any illegality in convicting and sentencing the present petitioner. However, there is substance in the submissions made by counsel for the petitioner that the petitioner can be extended some leniency qua the sentence imposed upon him.

The ultimate object of criminal law is to instill fear of law against commission of crime so as to make an intending criminal refrained from committing crime. However, if still an offence is committed, reformation remains the main objects of the punishment. In the present case, this Court finds the argument of the counsel for the petitioner, that the petitioner has shown sufficient tendency to reform, to be sustainable and substantiated by the custody certificate. The custody certificate verifies the

fact that even during the custody, the petitioner has not committed any crime or misconduct. As a result, he has been awarded remission as well, for his good conduct during the imprisonment.

Besides this, it is not even disputed that the petitioner is only the first offender. The petitioner is 46 years of age, therefore, he would be deep down in the responsibilities of the family life. Hence, the submission of the counsel for the petitioner that the petitioner deserves to be treated with a leniency in the matter of punishment, being the sole bread earner of the family, also appears to be substantial. Therefore, it would not be unjustified if the sentence of the petitioner is reduced to some extent, so as to grant him an opportunity to reform himself and to join the mainstream once again.

In view of the above, the present petition is partly allowed. While maintaining the conviction of the petitioner, the sentence awarded to the petitioner is reduced to the rigorous imprisonment for a period of one year and six months along with the fine and default sentence imposed upon him by trial Court. However, the counsel for the petitioner submits that the fine has since been paid by the petitioner. As a result, as the substantive punishment, the petitioner is ordered to undergo rigorous imprisonment for one year and six months only.

(RAJBIR SEHRAWAT)
JUDGE

29.10.2018

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Whether speaking / reasoned : Yes No

Whether Reportable : Yes No