

112.

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

CRR-741-2018 (O&M)

Date of decision:25.10.2018.

RISHI KUMAR

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. J. S. Thakur, Advocate,
for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.(Oral)

The petitioner has filed the present revision petition against the judgment dated 18.12.2017 passed by learned Additional Sessions Judge, Jalandhar whereby his appeal against the judgment of conviction and order of sentence dated 24.12.2015 passed by learned Judicial Magistrate 1st Class, Jalandhar, was dismissed.

Briefly stated, an FIR No.263 dated 08.08.2009 under Sections 419, 420, 465, 471, 468, 120B IPC was registered against the petitioner at Police Station Division No.4, Jalandhar on a complaint dated 08.08.2009 made by Shri H.S. Grewal, the then Chief Judicial Magistrate, Jalandhar to the effect that the petitioner-Rishi Kumar stood surety for accused Om Parkash @ Sanjay Kangari. He furnished surety bonds along with the copy of jamabandi, which on verification was found to be a forged document.

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 petitioner free of costs.

On finding a prima-facie case, the petitioner was charge-sheeted for the commission of offence punishable under Sections 420, 465, 468, 471, 120B IPC to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 24.12.2015 convicted the petitioner under Section 471 IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/-, and in default of payment of fine, to further undergo simple imprisonment for a period of two months.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 18.12.2017 passed by learned Additional Sessions Judge, Jalandhar, the said appeal was dismissed.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

Learned counsel for the petitioner states that he does not press this petition on merits and has confined his prayer qua the quantum of sentence only. He further states that the petitioner stood surety in a case titled as "State Versus Om Parkash @ Sanjay Kangari" bearing FIR No.62 dated 29.05.2006 registered under Section 306 IPC at Police Station GRP, Jalandhar. He furnished surety bond (Ex.PW4/A), copy of jamabandi (Ex.PW4/B) and driving licence (Ex.PW4/C). He further states that the

120B IPC, but he has been convicted only for Section 471 IPC. As against the awarded sentence of 2 years, the petitioner is in custody for more than 1 year. Even otherwise the person for whom the petitioner stood surety has been convicted in FIR No.62 dated 29.05.2006 (supra). In this manner, there is no case against him.

He has further contended that the petitioner is a poor person and is not a previous convict. There is no other case pending against him. He has been suffering the agony of criminal proceedings since 08.08.2009 i.e. the date when the FIR in question was registered against him. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel who is assisted by ASI Ram Rattan, has argued that since the petitioner had submitted a forged jamabandi and facilitated the accused Om Parkash @ Sanjay Kangari in getting his bail in FIR No.62 dated 29.05.2006 (supra), the petitioner does not deserve any interference in the present petition.

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 petitioner guilty for commission of offence under Section 471 IPC. The appellate Court has also rightly dismissed his appeal. 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 petitioner has not assailed the judgments of conviction and has,

rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue of quantum of sentence is concerned, the petitioner has already undergone imprisonment for a period of 1 year, 1 month and 19 days, as against the awarded sentence of two years. He has been facing the agony of criminal proceedings since 08.08.2009 i.e. the date when the FIR in question was registered against him. He is not a previous convict and no other case is pending against him.

Therefore, taking into account the protracted trial, antecedents of the petitioner, coupled with the fact that as against the awarded sentence of two years, he has already suffered incarceration for a period of 1 year, 1 month and 19 days, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, there will be no change in the sentence of fine awarded to the petitioner.

The petitioner be released forthwith if not required in any other case subject to payment of fine if already not paid.

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

(HARI PAL VERMA)
JUDGE

25.10.2018
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.