

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1798-2010

Date of Decision: 06.09.2019

Rajinder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ajay Singla, Advocate,
Ms. Kamaldeep Kaur, Advocate, and
Ms. Amandeep Kaur, Advocate, for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offence under Section 420/120-B IPC. Vide judgment and order dated 12.11.2009, learned Additional Chief Judicial Magistrate, Hoshiarpur, found the petitioner guilty for the offence under Section 420 IPC and sentenced her undergo RI for one year and to pay a fine of Rs.1500/- and, in default of payment of fine, to further undergo RI for 15 days.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Hoshiarpur. Vide judgment dated 3.6.2010, the learned Additional Sessions Judge Hoshiarpur, while upholding the conviction of the petitioner under Section under Section 420 IPC, dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the learned trial Magistrate.

Still aggrieved, the petitioner has preferred the present revision petition.

In the present case, FIR had been registered on the statement of Bakhshish Singh son of Bawa Singh, to the effect that Gurbax Singh and his wife Tarsem Kaur, residents of Mohali, were known to him. He expressed his desire to send his son abroad, whereupon both the aforesaid persons told the complainant that they could help him in this regard and thus, they introduced the petitioner with accused-petitioner Rajinder Kaur. On 20.8.1998, the accused came and took the passport of the complainant's son, namely, Surinderjit Singh and also took an amount of Rs.13,500/- from the complainant and accused-petitioner Rajinder Kaur also issued a receipt in this regard. The accused assured the complainant that Visa would be arranged. It was further alleged that accused-Rajinder Kaur, had received an amount of Rs.1,16,500/- more from the complainant and told him that Visa had been obtained and they would send the complainant's son to Italy. It was further alleged that accused-Rajinder Kaur, her husband Jasjit Singh, Tarsem Kaur and Gurbax Singh again came to the complainant and took Rs.2,20,000/- from him. At that time, Surinderjit Singh, had accompanied them. Thereafter, they arranged a flight for the son of the complainant from Delhi to Moscow on 11.10.1998, but he was in fact, sent to Armania. On reaching there, the complainant's son telephoned him that he was not sent at the proper place. Upon this, the accused raised a further demand of Rs.50,000/-. The complainant also paid the said amount. All the

accused had assured the complainant that his son would be properly settled abroad. However, after sometime, the complainant received an intimation that his son had died and his dead-body was lying in some Hospital at Keree. Despite the best efforts of the complainant, the dead body of his son, could not reach India. It was, thus alleged that all the accused had cheated the complainant of Rs.4,00,000/- for sending his son to Italy, but failed to send him there.

After completion of investigation, challan was presented in the Court.

Charge under Section 120-B/420 IPC was framed against the accused to which he pleaded not guilty and claimed trial.

The prosecution had, in order to prove its case, examined as many as 4 witnesses, including complainant Bakshish Singh.

In his statement recorded under Section 313 Cr.P.C., the accused denied the allegations and pleaded false implication.

During the proceedings before the trial Court, accused-Gurbax Singh absconded the trial and consequently, he was declared a proclaimed offender.

The learned trial Court, on the basis of evidence and after taking into consideration the rival contentions, vide judgment and order dated 12.11.2009, acquitted accused-Tarsem Kaur of the charge framed against her, whereas accused-Rajinder Kaur, was convicted and sentenced, as noticed

above. The appeal filed by her was dismissed by the learned Additional Sessions Judge, Hoshiarpur.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that the FIR in this case was registered 30.10.1999; that petitioner has been facing the agony of trial for the last 19 years and that by now, the petitioner has already undergone a period of 3 months 20 days out of the total sentence of one year. It is, thus, submitted that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by her.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that the findings recorded by the Courts below are based on cogent and convincing evidence. It was clearly proved before the learned that the son of the complainant had been sent at a wrong place, and not at the proper place, as assured and promised by the accused. Thus, in this way, there is no scope for interference in the findings recorded by the Courts below.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offence under Section 420 IPC. Though, the learned counsel for the petitioner did not lay challenge to the conviction part, yet in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the

petitioner as recorded by the trial Court and upheld by the appellate Court, is maintained.

While coming to the sentence part, by now, the petitioner has undergone 3 months and 20 days of the actual sentence out of her total substantive sentence of one year. Taking into consideration that the FIR in this case was registered on 30.10.1999 and the fact that the petitioner has been facing the agony of trial for the last 19 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining sentence. Ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by her.

In view of the above, while upholding the conviction of the petitioner as recorded by the Courts below, her substantive sentence is reduced to the period already undergone by her, but subject to payment of Rs.5,000/- as fine, over and above the amount of fine already imposed by the trial Court. The said amount shall be deposited by the petitioner before the learned Chief Judicial Magistrate, Hoshiarpur, within a period of two months from today. Failing to comply with the said direction would entail the automatic dismissal of the revision petition.

Disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

06.09.2019

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Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No