

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

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CRR No.2602 of 2018.

Date of Decision: 26.02.2019.

Pawan Kumar

...Petitioner.

Versus

State of Haryana and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. D.K. Mittal, Deputy Advocate General, Haryana
for respondent No.1.

Ms. Shelja Sharma, Advocate for respondent No.2.

SHEKHER DHAWAN, J.

Present revision petition is against the impugned judgment of conviction dated 11.09.2015 and order of sentence dated 15.09.2015 passed by learned Judicial Magistrate Ist Class, Assandh, whereby the petitioner was held guilty for commission of offence under Section 420 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/-. In case of non payment of fine amount, the petitioner was directed to further undergo imprisonment for six months.

2. The appeal preferred by the present petitioner against the above said judgment of conviction and order of sentence was also dismissed by learned Additional Sessions Judge, Karnal, vide judgment dated 30.07.2018.

3. During the preliminary hearing, when the matter was taken up on 13.08.2018, learned counsel for the parties contended that the compromise has been effected between the parties. In view of the said

matter, the parties were directed to appear before the concerned Chief

Judicial Magistrate/ Illaqa Magistrate on 12.09.2018 for getting their statements recorded with regard to the compromise arrived at between them.

4. The trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise and to send its report to this Court through District and Sessions Judge.

5. Learned counsel for the petitioner contended that the petitioner is facing the trial since 2012. He further contended that after dismissal of the appeal against the judgment of conviction and during pendency of this revision, the parties have entered into compromise dated 01.08.2018 (Annexure A/1), therefore, the present revision petition be accepted and the judgment of conviction as well as order of sentence and the judgment dismissing the first appeal be set aside.

6. On the other hand, learned State counsel and counsel for respondent No.2 affirmed the genuineness of the compromise dated 01.08.2018 (Annexure A/1).

7. In compliance of the order dated 13.08.2018 passed by this Court, report from learned Chief Judicial Magistrate, Karnal, through learned District and Sessions Judge, Karnal has been received to the effect that the compromise is genuine, voluntarily and without any coercion or undue influence.

8. Having considered the contentions raised by learned counsel for the parties and appraisal of the record, this Court is of the considered view that as regard to commission of offence and conviction of the petitioner for the offence punishable under Sections 420 IPC, there is no dispute that learned Court below had rightly recorded the judgment of

conviction for the said offence on the basis of statements of complainant-Parveen and other material witnesses/ evidence available on the file.

9. Learned counsel representing the petitioner has otherwise not challenged the judgment of conviction and as such, there is no illegality in the judgment of conviction recorded by learned trial Judge and the said findings having been affirmed by learned Additional Sessions Judge. The present revision petition qua judgment of conviction recorded by learned trial Judge and judgment passed by learned First Appellate Court, affirming the conviction of the petitioner under Section 420 IPC, is dismissed.

10. Now, coming to the point of sentence, the petitioner has been awarded sentence of Rigorous Imprisonment for a period of 03 years under Section 420 IPC. By now, the petitioner has already suffered much agony of law as he has been facing trial since 2012. He has already undergone some sentence while remaining in custody during the trial and during pendency of the present revision petition. It is not disputed that the parties have settled their dispute amicably.

11. Identical view as taken by this Court in **Sardara Singh and others Vs. State of Punjab, 2004 (3) R.C.R. (Criminal) 265**, wherein Coordinate Bench of this Court observed as under :-

“14. A settlement, which emerges from the hearts of the individuals will be more lasting as compared to the one which will be enforced by penal provisions of law. Now a days Lok Adalats have become very popular, wherein attempt is being made to settle the matter amicably and maintain the relationships between the parties. In the case in hand also, an attempt has been made by the parties to rehabilitate in life, which this Court feels is required to be appreciated. One of the appellant had already died during pendency of this appeal and others have already undergone some sentence.”

12. Taking into consideration all these facts, while maintaining the judgment of conviction of the petitioner under Section 420 IPC and judgment of the First Appellate Court affirming the aforesaid judgment of conviction, the order of sentence is modified to the extent that the sentence of petitioner, Pawan Kumar, in this case shall be reduced to the period he has already spent while remaining in custody during the period of trial, appeal and revision proceedings. The petitioner be released from custody in this case, if not required in any other case.

(SHEKHER DHAWAN)
JUDGE

26.02.2019.

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Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No