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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-978-2018 (O&M)

Date of Decision : January 25, 2019

Malkiat Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by: Mr. Karan Choudhary, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, Deputy Advocate General,
Punjab.

SHEKHER DHAWAN, J.

CRM-9305-2018

Prayer in this application under Section 5 of the Limitation Act read with Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') is for condonation of delay of 40 days in filing the revision petition.

After hearing the learned counsel for the parties and perusing the application which is supported by an affidavit of the petitioner, delay of 40 days in filing the revision petition is condoned.

CRM stands disposed of.

Main Revision Petition

Present revision petition is directed against the judgment dated 27.10.2017 passed by learned Additional Sessions Judge, Gurdaspur,

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whereby the appeal preferred by the present petitioner against the judgment of conviction and order of sentence dated 06.07.2013 passed by learned Judicial Magistrate Ist Class, Gurdaspur, was dismissed.

2. The petitioner was convicted for commission of offence under Section 420 of the Indian Penal Code (IPC) and was sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.4000/- and in default of payment of fine, to further undergo rigorous imprisonment for 6 months, in case bearing F.I.R.No.204 dated 04.10.2007 registered under Section 420 and 406 IPC at Police Station Dhariwal.

3. Facts relevant for the purpose of decision of the present revision petition; as per the complainant-Chanchal Singh, in the month of April, 2004, the present petitioner after convincing the complainant demanded Rs.80,000/- each for sending his nephews, Jaswinder Singh and Jagmohan Singh abroad and the complainant gave an amount of Rs.40,000/- on 10.06.2004, Rs.40,000/- and Rs.60,000/- on 16.07.2004 to the petitioner in the presence of one Lakhbir Singh. The petitioner handed over visa and took the complainant and his nephews Jaswinder Singh and Jagmohan Singh to Delhi, but sent them back to their house. The petitioner did not send nephews of the complainant abroad. A written agreement Mark-A was also signed by the petitioner in this regard. Thereafter, the complainant reported the matter to the police and on the basis of the which, the aforesaid F.I.R. was registered.

4. After completion of investigation proceedings, challan was presented before the trial Court.

5. During trial, learned trial Court completed various proceedings

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of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, learned trial Court held the petitioner guilty for commission of offence under Section 420 IPC and convicted and sentenced him vide judgment and conviction and order of sentence dated 06.07.2013.

6. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned first appellate Court vide judgment dated 27.10.2017.

7. At the very outset, learned counsel for the petitioner contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken. As per the custody certificate dated 18.01.2019, the petitioner has already undergone actual sentence of 01 year, 02 month and 08 days (including remissions) against the awarded sentence of 02 years and there is no other case against the petitioner.

8. Learned State counsel contended that the petitioner does not deserve any concession and the present revision petition be dismissed.

9. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that both the Courts below have already appreciated the evidence in its perspective manner. As such, the present revision petition, qua judgment of conviction passed by the Court below, stands dismissed.

10. As regard to quantum of sentence, this Court is certainly inclined to take a lenient view in this case. The petitioner has already undergone actual sentence of 01 year, 02 month and 08 days (including

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remissions) against the awarded sentence of 02 years as per the custody certificate dated 18.01.2019 and there being no other case against the present petitioner, taking a lenient view on the point of sentence, the order of sentence is modified to the extent that the sentence of petitioner, Malkiat Singh in this case shall be reduced to the period he has already spent while remaining in custody during the period of trial, appeal proceedings and this revision petition. The petitioner be released from custody in this case, if not required in any other case.

11. Resultantly, the present revision petition stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

January 25, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes