

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 2413 of 2019 (O&M)
Date of Decision: 29.11.2019**

Anjani Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.P.Arora, Advocate,
Mr. Himanshu Arora, Advocate and
Ms. Neha Sharma, Advocate for the petitioner

Mr. Rahul Mohan, DAG, Haryana

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 26.8.2019, passed by Additional Sessions Judge, Faridabad, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 2.11.2016, passed by Judicial Magistrate Ist Class, Faridabad in case FIR No. 242 dated 4.8.2009 under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station SGM Nagar, Faridabad, was dismissed.

The brief facts of the present case are that complainant Kishan Lal Sehgal moved a written complaint to the SSP, Faridabad alleging that a plot bearing No. 3-C/68 BP to the extent of ½ share i.e. 366.5 square yards was owned by him and the remaining ½ share is owned by Mr. M.L.Malhotra. It was further mentioned in the FIR that some property dealers and land mafia were trying to sell the plot on the basis of some forged documents. On investigation, the present petitioner along with

co-accused Davender Kumar Chauhan, Ranbir and Arun were apprehended.

After completion of investigation and necessary formalities, challan was presented against the accused.

Charges were framed against the accused under Sections 420, 467, 468, 471 and 120-B IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as fifteen witnesses.

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

No witness was examined by the accused in his defence.

The trial Court vide judgement and order dated 2.11.2016 convicted and sentenced the petitioner and co-accused Davender as under:-

<i>Under Sections</i>	<i>Sentence awarded</i>
<i>467 IPC</i>	<i>To undergo rigorous imprisonment for three years and to pay a fine of Rs. 2000/- each and, in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.</i>
<i>468 IPC</i>	<i>To undergo rigorous imprisonment for three years and to pay a fine of Rs. 2000/- each and, in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.</i>
<i>120-B IPC</i>	<i>To undergo rigorous imprisonment for one year and to pay a fine of Rs. 1000/- each and, in default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days..</i>

However, accused Ranbir and Arun were acquitted of the charges framed against them.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 26.8.2019.

Learned counsel for the petitioner contends that the petitioner

was only an attesting witness for the agreement to sell between Daulat Ram

and Davender Singh in the year 1983. There is no allegation that any money had been paid or any loss had been caused in real terms to any of the parties. As per FSL report, signatures of petitioner Anjani Kumar could not be found to be his authorship nor investigation officer has been examined. On these premises, learned counsel for the petitioner prays that the substantive sentence imposed upon the petitioner may be reduced to the period already undergone by him.

On the other hand, the learned State counsel has opposed the prayer made by the petitioner and submits that both the Courts below, have appreciated the evidence and facts on record in the right perspective and hence, the findings recorded by the Courts below do not require any interference by this Court.

With the able assistance of the learned counsel for the petitioner and the learned State counsel, I have gone through the record of the Courts below.

The alleged forged documents are dated 13.8.1979 and 18.4.1983, whereas FIR was lodged on 4.8.2009. There is delay of 26 years on the part of the complainant in lodging the FIR. No explanation has been given why it took so long for the complainant to lodge the FIR. Document of 1983 was never used by the accused for any financial gain.

Learned trial Court held that there was no direct inducement to the complainant for delivery of any property. So no cheating was committed to complainant by the accused side and accused had not committed any cheating punishable under Section 420 IPC and also not committed the offence punishable under Section 468 IPC i.e. forgery for the purpose of cheating. So accused Anjani Kumar and Davender had committed the

offence punishable under Sections 467, 471 and 120-B IPC.

Both the Courts below after having scrutinized the evidence on record have rightly convicted the petitioner for the offences under Sections 467, 471, 120-B 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 Courts below, is upheld.

While coming to the sentence part, the petitioner is 69 years of age and is in custody for about three months. Taking into consideration that the FIR in the present case was registered on 4.8.2009 and petitioner has been facing the agony of trial for the last 10 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars at this stage, to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

Accordingly, the conviction of the petitioner under Section 467, 471, 120-B IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him. The petitioner who is in custody, be set at liberty forthwith, if not required in any other case.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

November 29, 2019
Gurpreet

GURPREET SINGH
2019.12.05 16:57
I attest to the accuracy and
authenticity of this document
chandigarh

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes