

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

**CRR No. 2038 of 2005
DATE OF DECISION :- January 23, 2020**

Jaswant Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Rajinder Kumar Singla, Advocate for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Accused Gurbachan Singh, Major Singh, Jaswant Singh, Jagdish Kumar, Shadi Lal, Mohinder Singh, Hardev Singh, Joginder Singh and Harminder Singh faced trial by Judicial Magistrate Ist Class, Sunam in case F.I.R. No. 140 dated 6.10.1972 for offences under Sections 409/465/467/120-B/109 IPC registered with Police Station Dirba.

Briefly stated the facts of the case as per prosecution story are that on 23.9.1972 Assistant Registrar, Co-operative Societies, Sangrur addressed a communication to Superintendent of Police, Sangrur for registration of a criminal case against Hardev Singh Sarpanch son of Gurnam Singh of village Dhandoli Kalan for embezzlement of funds of Rs.5,74,998/- of the Dhandoli Kalan No. 1 Co-operative Agricultural Service Society contending there in that Hardev Singh Sarpanch, who was

cashier of Dhandoli Kalan No. 3 Co-operative Agricultural Service Society in collusion with his brother Harminder Singh who is President of the Society, had withdrawn the amount from the Central Co-operative Bank Ltd., Sangrur by forging signatures and thumb impressions of certain members, although no payments had been made to the members and the amount had been embezzled. The details of the amount had been given in that communication contending that for the purpose of withdrawal, demand forms were produced in the Branch of the Bank by forging signatures of certain members. There were no proper attestation and rather Hardev Singh obtained signatures/thumb impressions of his brother and one or two other persons and withdrew the amount.

On receipt of such complaint, the matter was probed and formal F.I.R. was registered. Involvement of several other persons including the present revisionists in the scam was found to be there. They were formally arrested and ultimately were challaned. They faced trial on conclusion of which learned Judicial Magistrate Ist Class, Sunam convicted and sentenced the accused. Accused Harminder Singh was convicted for offences under Sections 409, 467 and 120-B IPC, Gurbachan Singh for offences under Sections 465, 120-B IPC, Hardev Singh and Major Singh for offences under Sections 109 read with Section 409 IPC, Joginder Singh, Garja Singh, Jaswant Singh, Jagdish Kumar, Shadi Lal and Mohinder Singh for offences under Section 465 IPC, Section 109 read with Section 409 IPC and 120-B IPC. The sentence awarded to them was up to three years and the same was suspended by the trial Magistrate.

The accused convicts had challenged the said judgment of

conviction and order of sentence by way of filing appeals bearing Nos. Criminal Appeal No. 01 of 18.4.2000, Criminal Appeal No. 71 of 18.4.2000, Criminal Appeal No. 72 of 18.4.2000 and Criminal Appeal No. 103 of 18.4.2000, which were disposed of by Additional Sessions Judge (Adhoc) Fast Track Court, Sangrur vide judgment dated 4.8.2005 inasmuch as the appeal filed by all the accused appellants except those of Garja Singh were dismissed. Meaning thereby that appeal filed by Garja Singh was allowed. Moving to appellants Gurbachan Singh, Major Singh, Joginder Singh, Jagdish Kumar, Shadi Lal, Mohinder Singh, Jaswant Singh, Harminder Singh and Jaswant Singh, learned counsel for the petitioners had submitted that the F.I.R. was registered in the year 1972 and the accused had suffered a long and protracted trial since then, therefore, benefit of probation be extended to them. Learned Additional Sessions Judge, considering the facts and circumstances of the case and law on the subject in the form of judgments Gurmail Singh and others vs. State of Punjab 2003 (2), Criminal Court Cases, 695 (P&H) and Lachmi Chand Vs. The State of Haryana, 1988(1), Recent Criminal Reports, 200, Punjab and Haryana High Court and keeping in view the fact that appellants had faced trauma of trial 33 years ago and had not misused the concession of bail and further they were not previous convicts granted the benefit of probation to such accused subject to their furnishing probation bonds in the sum of Rs.25,000/- with one surety of the like amount in each case undertaking to receive the sentence whenever called upon by the Court to do so and also not to commit the breach of trust and be of good behaviour and further to maintain peace and tranquility during the period of one year and in default of doing so to

deposit of Rs.25,000/- with the State of Punjab. The fine deposited by such accused in the trial Court was ordered to be converted into cost of prosecution. They were further burdened with such cost to the tune of Rs.10,000/- each. Appellant Harminder Singh was found to be prime accused and a master mind of the scam, therefore, benefit of probation was denied to him, however, his sentence under Section 409 IPC was altered to Section 408 IPC and he was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- and in default of payment of fine to undergo further rigorous imprisonment for a period of three months and the remaining sentence was maintained as such.

Jaswant Singh, Jagdish Kumar and Shadi Lal had filed the present revision petition, aggrieved by the order directing their release on probation. Notice of the revision petition was given to the State which is being represented by Deputy Advocate General, Punjab.

I have heard learned counsel for the Revisionists and learned State counsel besides going through the record.

Learned counsel for the Revisionists at the very outset has stated that out of the three Revisionists, Jagdish Kumar has expired whereas Jaswant Singh is permanently settled in Canada and only Shadi Lal is pursuing the matter. He has contended that the Courts below had wrongly convicted and sentenced the revisionists, inasmuch as the prosecution had been unable to prove its charge against the accused beyond shadow of reasonable doubt, therefore, they deserve acquittal which was wrongly denied to them. Whereas learned State counsel has defended the judgments passed by the Courts below stating that no fault can be found with the same.

After hearing learned counsel for the parties, and perusing the record, I do not find any illegality or infirmity with the judgments passed by the Courts below rather they are based on proper appreciation of evidence and correct interpretation of law. No interference therewith is called for on the point of conviction or sentence rather as it comes out learned First Appellate Court was generous enough to grant benefit of probation to the revisionists.

I do not find any merit in the revision petition, therefore, the same stands dismissed.

(H.S. MADAAN)
JUDGE

January 23, 2020
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No