

***CRR-2564-2019 and
CRR-2755-2019***

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:31.01.2020

1. CRR-2564-2019

Abdul Hamid

.....Petitioner

Versus

State of Punjab

.....Respondent

AND

2. CRR-2755-2019

Mohan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gurinderpal Singh, Advocate for
Mr. Mohit Garg, Advocate for
the petitioner in CRR-2564-2019.

Mr. Naveen Batra, Advocate,
for the petitioner in CRR-2755-2019.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

Both the above mentioned revision petitions are taken up

PARVEEN KUMAR together as the same have arisen out of the one and same FIR.
2020.02.04 18:00
I attest to the accuracy and
integrity of this document

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Challenge in both the revision petitions is to the judgment dated 17.09.2019 passed by the learned Additional Sessions Judge, Sangrur, whereby while dismissing the appeal filed by the petitioners, the judgment of conviction and order of sentence dated 02.05.2017 passed by the learned Sub Divisional Judicial Magistrate, Malerkotla, in FIR No.65 dated 02.06.2011, under Sections 420, 465, 467, 468, 471 and 120-B IPC, registered at Police Station City-II, Malerkotla, have been upheld.

The petitioners were tried for committing the offences under Sections 420, 465, 467, 468, 471 and 120-B IPC. As per the prosecution version, complainant-Mohd. Akram stated that Agent Abdul Hamid son of Suleman, told his parents to send them abroad. He told that he had work permits of Singapore and would send their sons to Singapore, where they would earn handsome income. His parents agreed to him, because he is resident of Malerkotla. He demanded Rs.3,00,000/- against each person and received Rs.7,00,000/- from them which includes Rs.3,00,000/- each of Arshad and Abdul Rashid and Akram gave Rs.1 lakh to him on 31.12.2009. On that day, he sent them to Thailand and told them that they would get work permit from Thailand and they would take the flight to Singapore. Thereafter, his agent gave them work permit in Thailand and sent them to Singapore, where from they were deported telling that they possess forged work permit. On 31.12.2009, they reached at Delhi and at the Airport, the police recovered forged passports from them and released them. They reached at Malerkotla and approached agent Abdul Hamid to return their money. He apologized that the documents of their work permits were forged

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month after selling his land. Even after the passing of one year, agent Abdul Hamid had not returned the amount. He has cheated the complainant and embelled their amount of Rs.7 lakh.

On the basis of the evidence led, it stood proved before the learned trial Court that the petitioners-accused had cheated the complainant. Consequently, the petitioners were convicted under Sections 120-B, 420, 465, 468 and 471 IPC. They were, accordingly, sentenced to undergo as under:

Name of Convict	Under Section	Sentence
Abdul Hamid	120-B IPC	To undergo R.I. for one year.
	420 IPC	To undergo R.I. for one year.
	465 IPC	To undergo R.I. for one year.
	468 IPC	To undergo R.I. for one year.
	471 IPC	To undergo R.I. for one year.
Mohan Singh	420 read with Section 120-B IPC	To undergo R.I. for one year.
	465 read with Section 120-B IPC	To undergo R.I. for one year.
	468 read with Section 120-B IPC	To undergo R.I. for one year.
	471 read with Section 120-B IPC	To undergo R.I. for one year.

They have also been directed to pay compensation of Rs.20,000/- each to the complainant party.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioners preferred two separate appeals before the learned Additional Sessions Judge, Sangrur. However, vide impugned judgment dated 17.09.2019 passed by the learned Additional Sessions Judge, Sangrur,

the appeals were dismissed, thereby affirming the judgment and order

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passed by the learned trial Court.

Still aggrieved, the petitioners have preferred the present revision petitions.

Learned counsel for the petitioners, at the very outset, submit that they do not not intend to press the revision petitions against the conviction recorded by the learned courts below. They further submit that both the revisions may be considered only qua quantum of sentence. While highlighting the mitigating circumstances, learned counsel for the petitioners submit that the petitioners have been facing the agony of trial for the last 8½ years and that by now, they have already undergone the actual sentence of 04 months and 10 days. In addition to above, learned counsel for the petitioner in CRR-2755-2019 submits that petitioner-Mohan Singh is 63 years of age and is suffering from various ailments. It is, thus, submitted that the sentence imposed upon the petitioners may be reduced to the one already undergone by them. In support of their contentions, the learned counsel relies upon Ravinder Singh vs. State of Punjab 2014 (10) R.C.R. (Criminal) 2482 and Ashok Kumar vs. State of Haryana 2016 (4) R.C.R. (Criminal) 676.

On the other hand, the learned State counsel submits that in view of the fact situation of the present case, the petitioners do not deserve any leniency and they are not entitled for reduction of the sentence.

I have heard the learned counsel for the parties and gone through the record.

Taking into consideration the cogent and trustworthy evidence

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the findings recorded by the Courts below convicting and sentencing the petitioners, do not call for any interference and the same are accordingly affirmed.

However, keeping in view the fact that the petitioners are first time offenders and have already undergone the actual sentence of 04 months and 10 days, I feel that ends of justice would be suitably met, if the sentence awarded to the petitioners is reduced to the period already undergone.

The view taken by this Court also finds support from the judgment rendered by this Court in ***Ravinder Singh's case (supra)***, wherein it has been held as under:

“10. After giving my thoughtful consideration to the contentions raised and careful perusal of the record, this Court is of the view that the submission of the learned counsel for the petitioners for leniency in the quantum of sentence has merit. Now, it is a matter of record that the petitioners have already undergone for about 4 months of substantive sentence out of the total awarded sentence for one year. Further, the petitioners have faced the agony of criminal trial for more than 11 years. In view of the peculiar facts and circumstances of the present case, ends of justice would be adequately met if the sentence is reduced to the period already undergone by them.

11. The view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in the case of **2006(4) R.C.R. (Criminal) 645 titled as “R. Soundarajan v. Seed Inspector, Coimbatore and another”** and **“Umrao Singh v. State of Haryana, 1981 AIR (SC) 1723.**

12. The relevant observations made by the Hon'ble Supreme Court in the case of **R. Soundarajan v. Seed**

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Inspector, Coimbatore and another (Supra)” are as under:-

“26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment.”

In “Umrao Singh v. State of Haryana, (supra), the Hon'ble Supreme Court observed as under:-

“After hearing counsel for the parties, we are satisfied that this is a case falling under the proviso of Section 16(1)(a)(i) and therefore, for adequate and special reasons, the sentence lower than the minimum prescribed could be awarded. The High Court itself felt bound to award the minimum sentence but on merits was satisfied that if the legal position warranted the appellant could be given lesser sentence. We are in agreement with the view of the High Court. The appellant/ petitioner is aged about 70 and suffering from asthma illness and has a clean past record. Besides, the percentage of deficiency that was noticed in the milk sold by him was 0.4% in the fat contents.

“2. Having regard to these facts, the expression of the view of the High Court was justified. We accordingly reduce the sentence of the appellant to the period already undergone. The sentence, of fine is maintained and we are informed that he has already paid the fine. Since he is already on bail, he should be released forthwith.

“3. The appeal is disposed of accordingly.”

13. In view of the totality of facts and circumstances of the case noted above, coupled with the reasons aforementioned, these three criminal revision petitions are dismissed so far as conviction of the petitioners is concerned. However, the sentence of the petitioners is ordered to be reduced to the

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period already undergone by them.”

Accordingly, conviction of the petitioners, as mentioned above, is maintained. However, sentence qua imprisonment of the petitioners, is reduced to the period already undergone by them. The petitioners, who are in custody in this case, shall be released forthwith if their custody is not required in any other case, subject to the payment of Rs.10,000/- each as compensation to the complainant party over and above the compensation already granted by the trial Court.

With the aforesaid order, the revision petitions are disposed of.

**(HARNARESH SINGH GILL)
JUDGE**

31.01.2020
parveen kumar

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No