

108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 114 of 2021 (O&M)
Date of Decision: 20.09.2021

Phool Kamal Singh @ Komal Singh
.....Petitioner

Vs.

State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. P.S. Hundal, Senior Advocate, with
Mr. Ajay Chaudhary, Advocate, for the petitioner.
Mr. Neeraj Poswal, A.A.G., Haryana.
Mr. R.S. Mamli, Advocate, for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By filing of the present criminal revision petition, the petitioner has assailed the judgment dated 26.08.2013, vide which the learned Additional Sessions Judge, Fatehabad, upheld the judgment of conviction dated 04.12.2010 and the order of sentence dated 07.12.2020, passed by the learned Judicial Magistrate Ist Class, Fatehabad, whereby the petitioner was convicted and sentenced as follows:-

Name of Convict	Under Sections (s)	Sentence (s)
Phool Kamal Singh @ Komal Singh	148 of the IPC	Rigorous imprisonment for six months
	323 of the IPC read with Section 149 thereof	Fine of Rs. 500 and in default thereof simple imprisonment for 15 days.
	325 of the IPC read with Section 149 thereof	Rigorous imprisonment for one year and fine Rs. 1,000 and in default thereof simple imprisonment for one month.

Name of Convict	Under Sections (s)	Sentence (s)
	326 of the IPC read with Section 149 thereof	Rigorous imprisonment for 03 years and fine Rs. 2,000/- and in default thereof simple imprisonment for two months.
	452 of the IPC read with Section 149 thereof	Rigorous imprisonment for one year and fine of Rs. 1,000/- and in default thereof simple imprisonment for one month.

2. It is first to be noticed that this petition had been filed after a large delay of 07 years (after the conviction of the petitioner was upheld by the learned Additional Sessions Judge, Fatehabad, vide a judgment dated 26.08.2013).

However, that delay had been condoned subject to the petitioner depositing Rs. 30,000/- with the Haryana State Legal Services Authority, essentially on the ground that the sentences imposed by that court upon his co-convicts, Buta Singh, Sahab Singh and Shyam Lal, had been reduced to the period already undergone by them, upon a similar criminal revision having been filed by them (the 4th accused, i.e. Trilochan Singh having died in the meanwhile, as submitted by learned senior counsel for the petitioner).

Thus, the costs having been deposited, the delay was condoned vide an order passed by this court on 10.09.2021.

3. Learned senior counsel draws attention of this court to the order passed in the case of the aforesaid convicts, i.e. in CRR No. 2844 of 2013, dated 24.10.2016, wherein, after noticing the facts of the case, the following order was recorded by a coordinate Bench:-

XXXX XXXX XXXX XXXX

“The learned counsel for the petitioners do

not press the revision petitions on merits and have submitted that the petitioners are the sole bread winners of their respective families. It is further submitted that the petitioners have suffered the agony of a protracted trial since the year 2005. They have never misused the concession of bail during the trial. Petitioner No.3 has already undergone actual sentence of more than 02 months out of substantive sentence of two years. Further, petitioner Nos.1 and 2 have undergone actual sentence of more than 1 month out of substantive sentence of two years. Thus, the learned counsel pray for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposes the prayer of the petitioners/accused and supported the judgment of conviction and order of sentence passed by the trial Court and affirmed by the Addl. Sessions Judge, Fatehabad.

I have heard the arguments of the learned counsel for the parties and have carefully gone through the record of the cases.

The prosecution case is fully proved from the statements of the prosecution witnesses. There is no flaw in the unassailed judgment of conviction. There is no merit in the present revision petitions which are dismissed on merits.

However, the petitioners have suffered agony of protracted trial for the past 11 years. It is one of the mitigating circumstances which enables them to be treated leniently. Petitioners have already undergone sentence of more than 01 month out of substantive sentence of two years and they have never misused the concession of bail. No previous conviction

has either been alleged or proved against any of the accused. In view of the above, the prayer made on behalf of the petitioners is accepted. The sentence awarded to the petitioners is ordered to be reduced to the period already undergone subject to payment of Rs. 25,000/- each towards compensation to be paid by the each petitioners namely Buta Singh, Shyam Lal and Sahab Singh, within three months from the date of receipt of certified copy of the order. It is made clear that if the amount is not paid within the stipulated period, the present revision petitions shall be deemed to be dismissed without any notice and they shall have to undergo the remaining part of sentence. They be released forthwith, if not required in any other case.

Ordered accordingly.”

4. Learned senior counsel submits that the present petitioner too (Phool Kamal Singh @ Komal Singh, appellant no. 2 before the learned Additional Sessions Judge), also does not press this petition on the merits thereof and only seeks that his sentence also be reduced to the extent already undergone by him, as was done in the case of his co-convicts.

5. As already noticed by a coordinate Bench in the order dated 24.10.2016, the co-convicts of the petitioner had undergone only one month of actual substantive sentence (with learned senior counsel very fairly submitting that Shyam Lal had undergone actually more than 02 months), but with it having been noticed that they had never misused the concession of bail and there was no previous conviction either, recorded for any other offence.

6. Having considered the matter, though as per the custody certificate available with learned State counsel, there is no other criminal case registered against the petitioner, however, the petitioner having been declared to be a proclaimed offender and thereby obviously having misused the concession of bail, in my opinion he cannot be treated absolutely on par with his co-convicts, and on that count he would need to be incarcerated for a slightly longer period than his co-convicts, he also having undergone a sentence of one month imprisonment, before he was released on parole on 30.06.2021.

7. It is also to be noticed that Mr. Mamli, learned counsel appearing for the complainant, submits that in fact at the stage when the order was passed in the case of the co-accused of the petitioner on (24.10.2016), there was no compromise reached between the parties, but now the complainant has compromised the matter with the present petitioner.

8. That being so, with the petition not being pressed on merits by learned senior counsel, subject to the petitioner paying Rs. 25,000/- as compensation to the complainant, Tajender Singh, (as was also ordered in the case of his co-convicts), and further, upon him paying a sum of Rs. 25,000/- to the Haryana Legal Services Authority, on account of the fact that he remained to be a proclaimed offender, the sentence imposed upon the petitioner by the learned courts below is reduced to the extent already undergone by him, provided he pays the said compensation, and the costs to the Haryana Legal Services Authority, within a period of 02 months from today.

9. If however he does not pay the said amounts, he shall be taken into custody for a period of two months more on account of non-payment of compensation and another one month (simple imprisonment) for non-payment of the fine imposed.

Disposed of as above.

September 20, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.