

CRR-4571-2017

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

CRR-4571-2017 (O &M)

Date of decision: 26.11.2021

Sanjay Kumar and others

...Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. S.K.Garg Narwana, Sr. Advocate with
Mr. Naveen Gupta, Advocate,
for petitioners No.1, 2 and 4.

Mr. Simran Sandhu, Advocate for
Mr. Abhilaksh Grover, Advocate,
for petitioner No.3.

Mr. Surender Singh, AAG, Haryana.

Mr. Gaurav Goel, Advocate,
for respondent No.2-bank.

HARNARESH SINGH GILL, J. (ORAL)

CRM-39519-2021

Allowed as prayed for. The letter dated 05.02.2019 given by
the petitioner to the bank, is taken on record as Annexure R-1.

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The petitioners were tried in case bearing FIR No.409dated
11.11.2008, registered at Police Station City Jagadhri, under Sections
406,420, 467, 468, 471 and 120-B IPC. The Judicial Magistrate Ist Class,
Yamuna Nagar, vide judgment dated 13.07.2015 and order of sentence
dated 14.07.2015, found the petitioners guilty for the offences punishable
under Sections 420, 467, 468 and 471 IPC, and sentenced them as under:

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<i>Section</i>	<i>Sentence</i>
<i>420 IPC</i>	<i>Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each.</i>
<i>467 IPC</i>	<i>Rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/- each.</i>
<i>468 IPC</i>	<i>Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each.</i>
<i>471 IPC</i>	<i>Rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each.</i>

In default of payment of fine, the petitioners were ordered to undergo simple imprisonment for a period of one month.

Aggrieved there-against, the petitioners preferred an appeal before the learned Additional Sessions Judge, Yamuna Nagar, which was dismissed, vide impugned judgment dated 31.10.2017.

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

During the course of hearing, learned Senior Counsel for petitioners No.1, 2 and 4 and the learned counsel for petitioner No.3 do not lay any challenge to the judgment of conviction of the petitioners recorded by the courts below and for that reason, there is no requirement to detail the factual matrix of the case.

Learned Senior Counsel for petitioners No.1, 2 and 4 and the learned counsel for petitioner No.3 have made submissions qua the sentence part on which this Court has heard them as well as the learned State counsel and the learned counsel for respondent No.2-bank.

While making submissions qua the quantum of sentence, learned Senior Counsel for petitioners No.1, 2 and 4 and the learned counsel for petitioner No.3 would submit that the petitioners are the first

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offenders; that they have no shady past; that they have been facing the agony of the trial since 2008; that they are the only bread winners of their family, and that their conduct during the trial has been quite fair and *bona fide* and they have never obstructed the course of proceedings before the courts below. The petitioners have undergone the actual sentence of seven months. Moreover, the Investigating Officer, Retd. SI Rajpal Singh, stated that the petitioners had not received any amount in their bank account and rather, the entire money had been siphoned off by one Chandersh Sahni, who was declared a proclaimed offender. Under these circumstances, the sentence imposed upon the petitioners may be reduced to the one already undergone by them. In support of their contentions, learned Senior Counsel for petitioners No.1, 2 and 4 and the learned counsel for petitioner No.3 rely upon the judgments rendered by the Coordinate Benches in Paramjit Kaur and others Vs. State of Punjab and another 2014(32) R.C.R. (Criminal) 500 and Pankaj Kumar Vs. State of Haryana 2018 SCC Online P & H 605. Moreover, the loans of the petitioners have been adjusted under one time compromise settlement. A communication dated 15.11.2021 sent by SBI, Mini Secretariat, Jagadhri, would show that petitioners-Sunil, Ashish and Vikas have settled their loan under SBI compromise scheme. The said communication is taken on record as Mark-A.

On the other hand, learned State counsel and learned counsel for respondent No.2-bank, while opposing the submissions made by learned Senior Counsel for petitioners No.1, 2 and 4 and the learned counsel for petitioner No.3, submit that both the courts below have rightly

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convicted and sentenced the petitioners and that the sentence awarded to the petitioners is in proportion to the offences committed by them. The petitioners have committed the crime not only against the bank but also against the society at large. However, learned counsel for respondent No.2 does not dispute that the petitioners have settled their loan under the one time settlement scheme. One of such communications issued in favour of petitioner No.1-Sanjay Kumar, has been placed on record as Annexure R-1.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that both the courts below have rightly convicted and sentenced the petitioner under Sections 420, 467, 468 and 471 IPC. There is, thus, no manifest error in the concurrent findings recorded by the courts below.

Thus, in my opinion, in view of the evidence on record, there is no scope for any interference in the findings of the Courts below, so far as the conviction under Sections 420, 467, 468 and 471 IPC is concerned. Hence, the conviction of the petitioners under Sections 420, 467, 468 and 471 IPC is upheld.

However, this Court finds certain extenuating circumstances to consider the prayer of learned Senior Counsel for petitioners No.1, 2 and 4 and the learned counsel for petitioner No.3 by noticing that the petitioners have suffered the long protracted criminal proceedings since 2008; that the petitioners have undergone the actual sentence of seven months each, and that the petitioners have settled their car loan with the bank under one time compromise settlement scheme.

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In view of the above, while upholding the conviction of the petitioners under Sections 420, 467, 468 and 471 IPC, the substantive sentence imposed upon them is reduced to the one already undergone by them. However, the fine imposed upon the petitioners along with its default clause, under the aforesaid sections is maintained. The fine has already been paid by the petitioners as depicted in the order of sentence dated 14.07.2015. The bail/surety bonds of the petitioners stand discharged.

Revision Petition is disposed of in the above terms.

26.11.2021
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No