

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

309

CRR-1060-2007 (O&M)
Date of decision: 25.09.2023

Malkiat Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Navjot Singh, Advocate/Legal Aid Counsel
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. The present revision petition has been filed against the judgment dated 18.05.2007 passed by the learned Additional Sessions Judge, Mansa, affirming the judgment of conviction and order of sentence dated 27.10.2006, rendered by the Sub Divisional Judicial Magistrate, Sardulgarh, vide which the petitioner has been convicted and sentenced as under:

Offence U/s	Imprisonment	Fine	Default sentence
420/34 IPC	RI for 1 year	Rs.500/-	RI for 3 months

2. The facts, which are necessary for the adjudication of the present case are that the petitioner-Malkiat Kaur and her co-accused took different amounts from the complainant-Gurdev Kaur as also 13 other persons on the pretext of getting them loan for purchase of buffalos. It was alleged that neither the loan was got sanctioned nor the amount was returned. Thus, a complaint was filed, after which an enquiry was conducted and an FIR was registered under Section 420

IPC. After completion of the investigation, challan was presented, on the basis of which charges were framed, to which she pleaded not guilty and claimed trial.

3. In order to bring home the guilt of the accused, the prosecution examined as many as 15 witnesses. On closure of the prosecution evidence, statement of the accused-petitioner was recorded under Section 313 Cr.P.C. She denied all the incriminating circumstances that appeared against her in the prosecution case while pleading false implication by the police.

4. On scrutinizing the evidence on record, the trial Court convicted and sentenced the accused-petitioner under Section 420 IPC read with Section 34 IPC.

5. Aggrieved accused-petitioner had preferred an appeal, which was dismissed by the learned Additional Sessions Judge, Mansa vide impugned judgment dated 18.05.2007.

6. Learned counsel for the petitioner, at the very outset, submits that she does not wish to challenge the judgment of conviction and prays for reducing the sentence awarded to her to the period of 2 months and 6 days undergone, on account of the facts, that she is first time offender; belongs to poor strata of the society; not involved in any other case; never misused the concession of bail and has been facing the agony of protracted trial for the last 23 years.

7. On the other hand, learned State counsel submits that both the Courts below after appreciating the evidence led by the prosecution, have rightly convicted and sentenced the petitioner, therefore, prays for the dismissal of the present revision petition.

8. Heard the learned counsel for the parties and perused the file.

9. Though the petitioner has not challenged the judgment of conviction,

this Court still deems it appropriate to evaluate the same. The depositions of all the PWs of having categorically named the petitioner as also her co-accused and giving them a total amount of Rs.37,000/- on the pretext of each receiving loan amount of Rs.50,000/-. On going through the evidence on record, the prosecution case is found well established beyond reasonable doubt. Thus, the trial Court has rightly convicted the petitioner and later on it was affirmed by the Appellate Court, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, the conviction of the petitioner is upheld.

10. Regarding the prayer of the learned counsel for the petitioner that in view of the aforestated mitigating circumstances, the sentence of the petitioner may be reduced to the period already undergone, it is apposite to make a reference to the judgment of **Jan Mohamad vs. State of Haryana**, 2019(2) SCC (Cri) 217, where the appellant was convicted under Section 420, 409 and 120B IPC and was sentenced to undergo rigorous imprisonment for 3 years, Hon'ble The Supreme Court reduced the sentence to what the appellant had undergone about 17 months.

11. In **P. Soundarya vs. Income Tax Officer, Tamil Nadu**, Criminal Appeal no.969 of 2000 decided on 01.04.2008, Hon'ble The Supreme Court reduced the sentence to the period already undergone by the appellant wherein she was convicted under under Sections 420 read with Section 511 IPC and Section 193 IPC read with Section 136 of Income Tax Act, 1961, by taking into account that she was aged 52 years and had children as also that the matter was 25 years old.

12. In **Edmund S. Lyngdoh vs. State of Meghalaya**, (2016) 15 SCC 572, the appellant was convicted under Section 420 and 120B IPC for 5 and 3 years of RI respectively alongwith fine of Rs. 1 lac and Rs. 50,000/-, Hon'ble The Supreme

Court while observing that he was 70 years old, undergoing treatment, had paid the fine amount and the matter was lingering for 3 decades, reduced his sentence to the period of 248 days already undergone.

13. Hon'ble The Supreme Court in **Naresh Chaubey vs. Central Bureau of Investigation Through Gyanendra P.D. Singh**, 2018(1) SCC(Cri.) 293, by taking into consideration that the appellant was aged 75 years and suffering from several ailments, reduced his sentence to the period of 20 months already undergone out of sentence of 3 years for conviction under Sections 420, 471 read with 465 IPC.

14. It is a settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

15. The object of the criminal justice system is to reform the offenders and to make them see and follow the right path. However, the ancient penological approach was of custodial measure to curb crime. A balanced approach keeping in view the interests of the victim and accused and their families, release on admonition, probation etc is the way forward.

16. Reverting to the facts of the present case as regards the prayer made on behalf of the petitioner is concerned, this Court considering the judgments referred to above and the mitigating circumstances, particularly that the petitioner is first time offender; belongs to poor strata of the society; has undergone 2 months and 6 days of sentence; suffering the ignominy of trial for the last about 23 years; prior to the alleged offence and after release on bail, has not misused such concession granted to her, finds that the ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by her.

17. Accordingly, while upholding the conviction of the petitioner, her sentence is ordered to be reduced to the period already undergone by her. However, the fine shall remain intact.
18. With the above modification in the order of sentence dated 27.10.2006, passed by the Sub Divisional Judicial Magistrate, Sardulgarh, as noted above, the revision petition is partly allowed.

(AMAN CHAUDHARY)
JUDGE

25.09.2023
ashok

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