

311 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: February 17, 2023

1. CRR No.1736 of 2007 (O&M)

Phagu Ram ...Petitioner
Versus
State of Haryana ...Respondent

2. CRR No.1737 of 2007 (O&M)

Phagu Ram ...Petitioner
Versus
State of Haryana ...Respondent

3. CRR No.1738 of 2007 (O&M)

Phagu Ram ...Petitioner
Versus
State of Haryana ...Respondent

4. CRR No.1739 of 2007 (O&M)

Phagu Ram ...Petitioner
Versus
State of Haryana ...Respondent

5. CRR No.1740 of 2007 (O&M)

Phagu Ram ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. J.S. Cooner, Advocate and
Mr. Vikrant Singh Cooner, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.(Oral)

This order shall dispose of five petitions mentioned above as all
of them have arisen out of the same FIR.

2. Petitioner was working as an Extra Departmental Branch

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Postmaster (in short 'EDBPM') in the Office of Senior Superintendent of Post Offices, Ambala. His employment was contractual in nature which was liable to be terminated at any time. A complaint was made by Senior Superintendent of Post Offices, Ambala to the Police as per which during the period from 13.07.1992 to 09.01.1996, petitioner had collected various amounts and made transactions in those accounts but failed to account for those transactions in the government records and thus, embezzled the government money. An amount of ₹4,800/- during 13.07.1992 to 22.11.1995; ₹4,200/- during 26.08.1992 to 03.01.1996; ₹540/- during January, 1993 to October, 1994; ₹5,100/- during 05.06.1992 to 27.05.1996 and ₹1,412/- during 29.07.1993 to 18.12.1995 in different account holders was allegedly embezzled by the petitioner. Besides, there was shortage of cash of ₹1364.62 on 09.01.1996, FIR was registered. After investigation, five separate challans were filed arising out of the same FIR against the petitioner for commission of the offences under Section 409 IPC against each of the five years running from the year 1992 to 1996. After trial, learned Judicial Magistrate Ist Class, Ambala convicted the petitioner in all the five cases vide separate but similar judgments dated 09.09.2004 and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹500/- for committing the said offence under Section 409 IPC besides default sentence. However, as petitioner was sentenced for commission of the offences in all the five cases arising out of the same FIR, therefore, under Section 427 Cr.P.C., all the sentences were directed to run

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concurrently.

3. Against the aforesaid judgments of conviction and order of sentence, five separate appeals were filed by the petitioner which were disposed of by learned Additional Sessions Judge (Adhoc), Fast Track Court, Ambala vide separate but similar judgments dated 25.08.2007. The convictions were maintained but the sentences were reduced to the period of one year imprisonment with sentences in all the five cases to run concurrently.

4. Against the above said concurrent findings of the Courts below, these five revisions have been filed.

5. I have heard learned counsel for the petitioner and learned State Counsel.

6. At the outset, learned counsel for the petitioner submits that petitioner does not challenge his conviction. However, prayer has been made to reduce the sentence of imprisonment, by sentencing the petitioner for the period already undergone by him. It is contended by learned counsel that occurrence took place during 1992 to 1996 i.e. more than 25 to 30 years back. Petitioner has already lost the service. He is more than 60 years of age. He is a poor person having the burden of bringing up three children and so, in all the circumstances, after such a long time, it will not be in the interest of justice to send him behind bars.

7. Learned State Counsel, by pointing towards the nature of offence, has opposed the request.

8. As rightly pointed out by learned counsel for the petitioner,

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offence was committed more than 25 to 30 years back. As per the custody certificate placed on record by learned State Counsel, petitioner has undergone custody of 02 months and 01 day. He had already deposited the amount of ₹4,052 during investigation. He is more than 60 years of age.

9. Having regard to all the above facts and circumstances, it will not be in the interest of justice to send the petitioner behind bars in the later stage of his life when he has already lost the job.

10. As such, prayer made by learned counsel for the petitioner is accepted. Sentence of the petitioner is reduced to the period already undergone by him.

All the petitions stand disposed of accordingly.

February 17, 2023

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No