

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1550-2009 (O&M)
Date of decision: 10.04.2023

GURCHARAN SINGH
.....Petitioner
Versus
STATE OF PUNJAB
.....Respondent

CORAM: HON’BLE MR. JUSTICE HARSH BUNGER

Present : None for the petitioner.
Mr. Aditya Kapoor, A.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

Petitioner (Gurcharan Singh) was convicted vide judgment/order dated 01.05.2006 passed by learned Sub Divisional Judicial Magistrate, Dhuri for cheating Constable Mohinder Singh by dishonestly inducing him to deliver Rs. One lac, for employment of his son and son-in-law. The petitioner was accordingly sentenced as under:-

<i>Offence</i>	<i>Sentence</i>	<i>Fine</i>
<i>Under Section 420 of the Indian Penal Code.</i>	<i>Rigorous Imprisonment for a period of one year.</i>	<i>Rs.500/- and in default thereof, further rigorous imprisonment for a period of three months.</i>
<i>Under Section 406 of the Indian Penal Code.</i>	<i>Rigorous Imprisonment for a period of one year.</i>	<i>Rs.500/- and in default thereof, further simple imprisonment for a period of three months.</i>

An appeal filed by petitioner against the said judgment of conviction and order of sentence dated 01.05.2006 was dismissed by the Court of learned Additional Sessions Judge, Fast Track Court, Sangrur, vide

its judgment dated 27.05.2009. Accordingly, the instant Criminal Revision Petition has been filed before this Court.

A perusal of the file shows that the present petition was admitted by this Court on 09.06.2009 and the sentence of the petitioner was ordered to be suspended during the pendency of revision petition.

Thereafter, on 20.05.2022, since nobody on behalf of the petitioner had appeared, the matter was adjourned to 20.07.2022. Even on 20.07.2022, there was no representation on behalf of petitioner. Accordingly, it was ordered that the petitioner and his counsel be notified of the date fixed. Today also, there is no representation on behalf of the petitioner.

As per Office report, notice issued to the petitioner has been received back with the report that he had died and the death certificate of the petitioner is attached with the notice report.

Section 394 of Cr.P.C. deals with abatement of appeals and it reads thus:

394. Abatement of appeals. - (1) *Every appeal under Section 377 or Section 378 shall finally abate on the death of the accused.*

(2) *Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:*

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation. - In this section, "near relative" means a parent, spouse, lineal descendant, brother or sister.

In view of the above, since the petitioner has expired and no one has appeared on his behalf to pursue the revision petition and the period of 30 days, as envisaged under Section 394 of the Code of Criminal Procedure, has elapsed, accordingly, the revision qua the main sentence would abate. However, since the petitioner was also imposed sentence of fine of Rs.1,000/-, accordingly, trial Court is directed to initiate proceedings for recovery of fine (if not already paid).

Disposed of accordingly.

April 10, 2023
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No