

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRR-9-2011
Bachan Kaur
..... Petitioner
Vs.
State of Haryana
..... Respondent

2. CRR-99-2011
Niranjan Singh
..... Petitioner
Vs.
State of Haryana
..... Respondent

Reserved on: 23.08.2023
Pronounced on:25.08.2023

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arvindpal Singh Grover, Advocate,
for the petitioner (in CRR-9-2011)

Mr. Gaurav Jain, Advocate,
for the petitioner (in CRR-99-2011)

Mr. Vipul Sherwal, AAG, Haryana.

DEEPAK GUPTA, J.

This order shall dispose of two petitions as titled above.
Petitioners are against the concurrent findings of conviction of the two
courts below in case FIR No.555 dated 22.10.1997 registered at Police
Station, City Fatehabad under Sections 419, 420, 465, 467, 468, 471 and
120B IPC.

Prosecution allegations & Investigation:

2 (i) As per prosecution case, complainant Balwant Kaur and accused Bachan Kaur (petitioner in CRR-9-2011) are real sisters, who had equal share in certain immoveable property having been inherited from their father. It was alleged that in order to cause harm to the complainant, accused Bachan Kaur filed a Civil Suit against the complainant by showing a forged exchange and by producing some other woman instead of the complainant, succeeded in procuring decree dated 16.05.1992 in her favour in Civil Suit No.626/92 in respect of that land. Mutation No.11093 dated 22.06.1992 was also got sanctioned. It was alleged further that accused Niranjn Singh (petitioner in CRR-99-2011), who knew the complainant, but still he intentionally identified some other woman as the complainant. It was alleged that complainant had never appeared in the above referred Civil Suit and thus, the decree was obtained by accused Bachan Kaur in order to usurp the land of the complainant. Complainant came to know about the fraud on obtaining revenue record from the patwari.

(ii) FIR was registered. Necessary investigation was carried out. After trial, the two accused were convicted vide judgment dated 04.09.2008 by Id. JMJC, Fatehabad. Accused-petitioner Niranjn Singh was convicted only under Section 420 IPC; whereas accused-petitioner Bachan Kaur was convicted under 420 as well as Sections 468 and 471 IPC. Vide separate order dated 06.09.2008, both the accused were sentenced to undergo simple imprisonment for a period of 3 years for committing the offence under Section 420 IPC and also to pay fine of ₹1000/- with default sentence. In addition to the same, accused Bachan Kaur was sentenced to undergo simple imprisonment for a period of 3 years for committing the offence

under Section 468 IPC with fine of ₹1000/- with default sentence, whereas she was also sentenced to undergo simple imprisonment for the same period for committing the offence under Section 471 IPC with fine of ₹1000/- with default sentence. All the sentences as awarded to accused Bachan Kaur were directed to run concurrently.

Dismissal of appeals

3. Against the aforesaid judgment of conviction and order of sentence, both the convicts filed separate appeals, which were dismissed by Id. Additional Sessions Judge-I, Fatehabad vide judgment dated 20.12.2010 & 16.12.2010 respectively.

Challenge in the Petitions

4. (i) Accused-Bachan Kaur filed CRR-9-2011, challenging the aforesaid concurrent finding of conviction. The petition was admitted on 17.01.2011 and remaining part of sentence was directed to be suspended vide order dated 07.02.2011.

(ii). Accused-Niranjan Singh filed CRR-99-2011, challenging concurrent finding of conviction. His petition was admitted on 15.03.2011 and remaining part of his sentence was also suspended on the same date.

Contentions of the petitioners

5. Although both the petitioners have challenged the convictions as well as sentences as imposed by the Courts below, but before this Court, Id. counsel for the petitioners have submitted that they do not challenge the conviction part. Withdrawing both the petitions against the impugned judgments of conviction, they have confined their prayer only to modify the sentence.

6. Id. counsel has drawn attention towards the long pendency of the matter and the ripe age of both the convicts and has prayed for modifying the sentence and to direct both the petitioners to be released for the sentence already undergone. It is also contended that land in question has already reverted to the original owner as was noticed by this Court vide order dated 07.02.2011 in CRR-9-2011.

Contention of the State

7. Id. State counsel has no objection if the sentence is modified.

Consideration by the Court

8. I have considered submissions of both the sides and have perused the record.

Bachan Kaur

9. (i) The age of the petitioner Bachan Kaur was noticed to be 81 years, when her remaining sentence was suspended vide order dated 07.02.2011. Meaning thereby, she is now at least 93 years of age. As per the custody certificate placed on record, she had already undergone actual custody of one month and 21 days before her sentence was suspended on 07.02.2011.

(ii) Having regard to the fact that land in question has already reverted to the original owner; the fact that decree in question was passed way back in 1992; the fact that petitioner is now 93 years of age and her sentence was suspended way back in February 2011, this Court is of the view that it will not be in the interest of justice to send her behind bars at such a ripe age.

(iii) Considering all the above facts and circumstances, the impugned order of sentence as passed by the Id. Court below is hereby

modified. Petitioner Bachan Kaur is sentenced to imprisonment for the period already undergone by her.

Niranjan Singh

10. (i) As far as petitioner Niranjan Singh is concerned, his conviction has been recorded under Section 420 IPC only. He was only identifier of the fake lady, who was identified as the complainant and thus, he was not beneficiary to the decree, which was passed in favour of accused Bachan Kaur. As per the custody certificate, he has already undergone actual sentence of 3 months and 26 days. He was 57 years of age at the time of his conviction recorded in 2008, which means that by now, he is at least 70 years of age. His sentence had been suspended in March 2011.
- (ii) Having regard to all the aforesaid facts and circumstances, the order of sentence qua petitioner Niranjan Singh is also modified. Petitioner Niranjan Singh is sentenced to imprisonment for the period already undergone by him.

Accordingly, both the petitions stand disposed of.

A photocopy of this order be placed on the files of other connected cases.

(DEEPAK GUPTA)
JUDGE

25.08.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |