

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-765-2006(O&M)
Date of decision :16.10.2023

Baisakhi
...Petitioner
VERSUS
State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. P.S. Bindra, Advocate for the petitioner
Mr. Madhur Singh, Legal Aid Counsel for the petitioner
Mr. Dhruv Sihag, AAG Haryana

AMAN CHAUDHARY, J.

1. The present revision petitions has been filed challenging the judgment dated 30.03.2006, passed by the learned Additional Sessions Judge, Karnal, dismissing the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 27/29.09.2001, rendered by the learned Sub Divisional Judicial Magistrate, Guhla, vide which he had been convicted and sentenced as under:

Offence u/s	Imprisonment	Fine	In default of payment of fine
408 IPC	RI 2 years	Rs.1500/-	SI 6 months
420 IPC	RI 2 years	Rs.1500/-	SI 6 months

2. Briefly put, the factual matrix of the case is that the accused-petitioner on 10.06.1993 had entered the office of Kangthali Co-operative Society at about 6 p.m. and issued various receipts/ L.P.O.s in the name of members of the society, of which he was a salesman and also took a receipt amounting to Rs.4,08,585/-, that was yet to be deposited.

Allegedly there was an attempt to forcibly obtain the signatures of the Secretary, co-accused, on the receipts. Thus, a complaint was submitted and during investigation it was found that both the accused had forged L.P.O.s amounting to Rs.60,030/- as also the above said amount was not returned to the bank. Hence, an FIR was lodged and challan was presented.

3. On finding a prima facie case, charges under Sections 408 and 420 IPC were framed against the petitioner and his co-accused, to which they pleaded not guilty and claimed trial.

4. The prosecution in order to bring home the guilt of the accused-petitioner, examined 22 prosecution witnesses and also placed on record documentary evidence. On closure of the prosecution evidence, statement of the accused was recorded under Section 313 of the Cr.P.C., wherein he denied all the incriminating circumstances while pleading innocence and false implication. In defence, one witness was examined.

5. On scrutinizing the evidence on record and after hearing the learned counsel for the parties, the learned trial Court convicted and sentenced the accused under Sections 408 and 420 IPC as noticed above.

6. Against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Karnal, which was dismissed vide impugned judgment dated 30.03.2006.

7. Aggrieved accused-petitioner has preferred the present revision petition.

8. Learned counsel for the petitioner, at the very outset submits that he does not wish to challenge the judgment of conviction and prays for reducing the sentence awarded to the period undergone i.e. 6 months, on

account of the facts that he is aged about 60 years; belongs to poor strata of the society; has 6 children; not previously convicted in any other case; never misused the concession of bail and has been facing the agony of protracted trial for the last 30 years.

9. 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. However, it remains uncontroverted that he is not a previous convict and that there is no complaint of he having misused the concession of bail.

10. Heard the learned counsel and perused the file.

11. Though the petitioner has not challenged the judgment of conviction, this Court still deems it appropriate to evaluate the same. The FSL report had shown that the signatures and thumb impressions on the issued receipts did not match with that of the members, in whose name they were issued and also the fact that the accused-petitioner refused to provide his specimen signatures. All the PWs denied the purchase of any fertilizer in their depositions, for which receipts were issued and no records of the same were found either in their passbook or stock register. 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, which 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.

12. 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 convicted under Section 420, 409 and 120B IPC was sentenced to undergo rigorous imprisonment for 3 years, Hon'ble The Supreme Court reduced the sentence to 17 months, being the period undergone by him.

13. 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 i.e. 7 days, 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. Further 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 along with fine of Rs. 1 lac and Rs. 50,000/- and sentence to the period of 248 days already undergone, observing that he was 70 years old, undergoing treatment, had paid the fine amount and the matter was lingering for 3 decades and in **Naresh Chaubey vs. Central Bureau of Investigation Through Gyanendra P.D. Singh**, 2018(1) SCC(Cri.) 293, the sentence of the appellant was reduced to the period of 20 months already undergone out of sentence of 3 years for conviction under Sections 420, 471 read with 465 IPC, by taking into consideration that he was aged 75 years and suffering from several ailments.

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 aged about 60 years; belongs to poor strata of the society; has 6 children; not a previous convict; undergone 6 months of sentence; suffering the ignominy of trial for the last about 3 decades; after release on bail, has not misused such concession granted to him, 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 him.
17. Accordingly, while upholding the conviction of the petitioner, her sentence is ordered to be reduced to the period already undergone by him. However, the fine shall remain intact.
18. With the above modification in the order of sentence dated 27/29.09.2001, passed by the Sub Divisional Judicial Magistrate, Guhla, as noted above, the revision petition is partly allowed.

16.10.2023
gsv/mk

(AMAN CHAUDHARY)
JUDGE

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