

253

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Date of Decision:-06.09.2023
CRR-1307-2020

TABITA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rahul Singla, Advocate
for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner against the judgment dated 07.06.2008 passed by the District and Sessions Judge, Kapurthala whereby the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 31.08.2007 passed by the Judicial Magistrate, 1st Class, Kapurthala has been dismissed.

2. The allegations in brief are that the complainant-Surat Singh son of Narain Singh had paid a sum of Rs.5.5 lakhs to the accused namely, Satpal Singh, Tabita (petitioner) and Arun Emmanuel to send his son Surjit Singh abroad in the year 2019 onwards. However, neither was Surjit Singh sent abroad nor was the money refunded back to him. The passport of Surjit Singh had also been retained by the accused.

3. Based on the evidence led, all the accused including the petitioner came to be convicted and sentenced by the Court of JMIC, Kapurthala vide judgment dated 31.08.2007 as under:-

Offence	Imprisonment	Fine	In Default
420 read with Section 120-B IPC	RI for 03 years	Rs.5000/-	RI for 06 months

4. Satpal alias Doctor and Tabita (petitioner) preferred separate appeals before the Court of Sessions Judge, Kapurthala which came to be dismissed vide judgment dated 07.06.2008.

The aforementioned judgments are under challenge in the present revision petition.

5. The learned counsel for the petitioner contends that the petitioner has been convicted on the basis of conjectures and surmises without any evidence on record. There was no evidence that the petitioner had induced the complainant in any manner so as to establish the offence of cheating. There was no evidence on record that the petitioner had demanded any money from the complainant or that any money was ever given to her. In fact, the complainant was blind and could not have identified the petitioner in Court and the finding of the Courts below that a blind person could identify a person through his voice was unsustainable. He lastly contends that as the petitioner was a lady and the FIR came to be registered way back in the year 2003, her sentence be reduced to the period already undergone by her in case this Court came to the conclusion that the judgments of conviction were not to be interfered with.

6. The custody certificate dated 04.09.2023 filed by the learned State counsel has been received and the same is taken on record. As per the custody certificate, the petitioner has undergone a total custody period of 01 year, 04 months and 25 days out of the sentence awarded of 03 years. He contends that the prosecution has established its case beyond any reasonable doubt. All the material prosecution witnesses had duly supported the case of the prosecution and no significant discrepancy had been pointed out in their depositions. Therefore, as the offence had been established in accordance with the law, the judgments of conviction were liable to be upheld.

7. I have heard the learned counsel for the parties.

8. The allegations against the petitioner and her co-accused have been established beyond any reasonable doubt whatsoever. The statements of the relevant prosecution witnesses are consistent in material particulars and no significant discrepancies have been pointed out by the counsel for the petitioner so as to dislodge the prosecution case. In fact, it has been clearly established that the petitioner and her co-accused had received the amount in question on the premise that they would send the son of the complainant abroad. However, neither was Surjit Singh son of Surat Singh sent abroad nor was his passport returned to him.

9. In view of the above discussion, I find no infirmity in the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, there is no merit in the present petition and the same stands dismissed.

10. As regards the imposition of sentence, it may be pointed out that the FIR came to be registered on 01.07.2003 i.e. more than 20 years ago.

The petitioner has undergone more than 01 year, 04 months and 25 days out

of the sentence awarded of 03 years awarded to her. At this stage, no useful purpose would be served by sending the petitioner back into custody to serve out her remaining sentence of three years. Therefore, I deem it appropriate to reduce the sentence of the petitioner to the period already undergone by her. The sentence of fine and sentence in default shall however remain intact.

(JASJIT SINGH BEDI)
JUDGE

05.09.2023
Jitesh

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