

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1210-2022
Reserved on 12.8.2024
Date of Decision : 20.08.2024

GURMAIL SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

Mr. Arun Abrol, Advocate
for the LR's of the complainant.

KULDEEP TIWARI, J.

1. The instant revision petition is directed against the judgment of conviction and order of sentence dated 8.3.2017, as passed by the learned Sub Divisional Judicial Magistrate, Samana vide which, the petitioner was convicted for the offences punishable under Sections 467, 468, 471 and 420 read with Section 120-B IPC and vide order of even date, he was sentenced as under:-

U/s 467 read with Section 120-B IPC	RI for a period of 3 years and fine of Rs.1,000/- and in default of payment of fine to undergo simple imprisonment for one month.
U/s 468 read with Section 120-B IPC IPC	RI for a period of 3 years and fine of Rs.1,000/- and in default of payment of fine to undergo simple imprisonment for one month.
U/s 471 read with Section 120-B IPC	RI for a period of 3 years and fine of Rs.1,000/- and in default of payment of fine to undergo simple imprisonment for one month.
U/s 420 read with Section 120-B IPC	RI for a period of 3 years and fine of Rs.1,000/- and in default of payment of fine to undergo simple imprisonment for one month.

2. Having aggrieved with the judgment and order (supra), the petitioner preferred a statutory appeal. The same was dismissed by the learned Additional Sessions Judge, Patiala, vide judgment dated 26.11.2021.

3. In the instant case, the FIR was registered on the basis of a statement, as suffered by Charan Singh son of Jagir Singh, resident of village Harchandpura, Tehsil Samana, District Patiala to the effect that the accused Gurmail Singh, executed an agreement to sell *qua* his land measuring 2 Killas i.e. 16 Kanals in favour of the complainant. After receiving the earnest money from the complainant, the petitioner in connivance with Karnail Singh, Surjit Singh, Jaswinderpal Singh and three other persons, entered into a criminal conspiracy, to cheat the complainant and prepared a forged agreement to sell with some one else. It is mentioned in the agreement to sell that accused Gurmail Singh received an amount of Rs.2,00,000/- as an earnest money. The agreement to sell was executed in the presence of marginal witnesses namely Kuldeep Singh son of Pritam Singh and Balvir Singh son of Sh. Jagir Singh. It is further submitted that accused persons prepared a forged agreement to sell in favour of his nephews Surjit Singh and Jaswinder Singh and did not

execute the said sale deed in favour of the complainant. In this regard the complainant filed a civil suit in the Court concerned, against the accused persons which has been decreed and the Court has cancelled the forged agreement to sell. The matter was inquired into and an FIR was registered against the accused persons and they were arrested in the present case. During investigation, the statements of the witnesses were recorded, memos were prepared and thereafter completion of investigation and other attendant formalities, a report was prepared in terms of Section 173 of the Code of Criminal Procedure and the same was presented in the Court concerned against the accused persons.

4. The investigation was carried out, and the final report *qua* the petitioner was filed. Charges were also framed against him, under Sections 420 read with Section 120-B IPC, 468 IPC read with Section 120-B IPC and 471 IPC read with Section 120-B IPC.

5. The prosecution, in order to establish the charges against the accused person, examined as many as seven witnesses. However, the accused has examined only one witness i.e. DW1 Dr. Inderjit Singh.

6. After examining the entire evidence, the learned trial court concerned held the petitioner guilty of the charges, as framed against him and sentenced as aforesaid.

7. Learned counsel for the petitioner at the very outset submits that he does not want to address arguments on merits of the instant petition.

However, considering the mitigating and aggravating circumstances, he made a prayer to reduce the sentence of the petitioner, as imposed by the learned

trial court concerned, and was also upheld by the learned appellate court concerned, to the period already undergone by the present petitioner. He further submits that the present case was registered in the year 2009, and it is almost 15 years that the petitioner is facing the agony of the pendency of the present criminal proceedings. Further, at the time of commission of offence, the petitioner was of young age and now he is well settled in his life and having grown up children and old aged parents, to look after and he has not committed any criminal offence since then, which further proves that the petitioner has mend his ways, and now is very much settled in the society. The petitioner remained enlarged on bail during the pendency of the present revision, and has never misused the concession of the same. He over and above further submits that during the pendency of the instant revision, a compromise has been effected between the parties concerned.

8. The fact regarding compromise is not disputed by the learned counsel for the complainant.

9. In order to find out the factum of the compromise, this Court vide order dated 15.7.2024, had sought the report from the learned trial Court concerned, regarding the authenticity of the compromise.

10. In deference to the directions (supra), a report bearing No.258 dated 25.7.2024 from the learned Sub Divisional Judicial Magistrate, Samana has been received regarding the compromise.

11. On the other hand, the learned State counsel has opposed the asked for relief (supra).

12. This Court has examined the entire record with the able assistance of the counsels for the parties.

13. Considering the aspect that the matter has been amicably settled between the parties concerned and the fact that the petitioner has already undergone one year, one month and fifteen days as on 9.7.2024 and also that the petitioner has never misused the concession of suspension of sentence, as granted by this Court and it seems that the petitioner has mended his ways and is now settled in the mainstream of the society. Therefore, it is not either in the interest of the society or the petitioner by sending him again to the prison. This Court finds support from the judgment of the Supreme Court in **Sk. Sakkar @ Mannan vs. State of West Bengal, 2021(4) SCC 483** wherein, the Supreme Court after considering the mitigating circumstances reduced the sentence to the period already undergone. The relevant observations reads as under:

“11. It is manifest from [Section 20\(i\)](#) of NDPS Act (as it stood in 1997), that even though a maximum sentence of five years RI and a fine of upto Rs.50,000/- was prescribed but there was no minimum mandatory sentence. The Legislature had in its wisdom left it to the judicious discretion of a court to award the minimum sentence albeit guided by the well known principles on the proportionality of sentence. Taking into consideration the peculiar facts and circumstances of this case, it appears to us that the ends of justice would be adequately met if the appellant’s sentence is reduced to the extent of the period he has already undergone. We order accordingly.”

14. Learned counsel for the petitioner placed reliance upon the

No.828 of 2020) wherein, the Supreme Court reduced the sentence from 10 to 6 years in case of commercial quantity under the the Narcotic Drugs and Psychotropic Substances Act, 1985 and observed as under:-

“5. Having heard the learned Advocates appearing for the respective parties and in the facts and circumstances of the case, more particularly when the quantity/Ganja recovered from the appellant was 6.300 kilogram, which is between small quantity and commercial quantity and considering the fact that the maximum punishment for such offence is 10 years rigorous imprisonment, out of which the appellant has already undergone six years rigorous imprisonment, we allow the present appeal in part and modify the impugned judgment and order passed by the learned trial Court, confirmed by the High Court, to the extent of imposing the sentence of six years rigorous imprisonment in place of ten years rigorous imprisonment as imposed by the learned trial Court and confirmed by the High Court. Rest of the judgment and order passed by the learned trial Court, confirmed by the High Court, is hereby confirmed.”

15. Considering the antecedents of the petitioner, aggravating and mitigating circumstances, while maintaining balance between deterrence against crime *viz-a-viz* re-formative approach of punishment, this Court deems it appropriate to reduce the period of sentence of the petitioner to the period already undergone by him.

16. In view of the above, the revision petition is partly allowed. The impugned judgment of conviction dated 8.3.2017, passed by the learned trial Court concerned, as well as the judgment dated 26.11.2021 passed by the

learned Additional Sessions Judge concerned are **upheld**. However, the sentence imposed upon the petitioner is reduced to the period already undergone by him. The sentence of fine is ordered to remain intact.

20.08.2024

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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No