

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1)

CRR-282-2011
Date of decision: 19.01.2024

Bikkar Singh

....Petitioner

Versus

The State of Punjab

...Respondent

2)

CRR-384-2011
Date of decision: 19.01.2024

Prabhjinder Singh

....Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.P.S. Sidhu, Advocate
for the petitioner (in CRR 282-2011).

Mr. Narinder Singh, Advocate
for the petitioner (in CRR 384-2011).

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J.

1. This common order of mine shall dispose of both the above-mentioned revision petitions as they arise out of the same factual matrix and the same FIR. For the sake of brevity, the facts are taken from CRR-282-2011.
2. The present revision petition is preferred against the judgment dated 27.01.2011 passed by learned Additional Sessions Judge, Ferozepur vide which the judgment of conviction dated 08.07.2010 passed by learned Judicial Magistrate Ist Class, Zira in FIR No. 29 dated 01.03.2000 under Sections 420,

465, 468, 471, 120-B IPC of the IPC registered at Police Station Makhu, has been upheld. However, the learned lower Appellate Court modified the order of sentence in the following terms for both the petitioners:

Offence under Section	Sentence
420 IPC	RI 2 years along with a fine of Rs. 500/- in default of which RI of 10 days
468 IPC	RI 2 years along with a fine of Rs. 500/- in default of which RI of 10 days
465 IPC	RI 2 years along with a fine of Rs. 500/- in default of which RI of 10 days
471 IPC	RI 2 years along with a fine of Rs. 500/- in default of which RI of 10 days

FACTUAL BACKGROUND

3. Briefly, the facts are that the petitioner-Bikkar Singh was the Sarpanch of Village Fatehgarh Sabhrah while petitioner-Prabhjinder Singh was the Panchayat Secretary. Two resolutions were passed by the Panchayat first, dated 07.12.1998 whereby Rs. 20,000/- were allowed to be withdrawn from Co-operative Bank, Makhu for repair of a room in dharamshala and the other dated 22.12.1998 whereby another Rs. 20,000/- were allowed to be withdrawn to construct boundary wall of the dharamshala. Complainant-Mohinder Singh, a member of the Panchayat, alleges that neither was he informed of the resolutions nor did he place his thumb impressions on the same. Accordingly, on 21.09.1999 the complainant made an application before the Block Development and Panchayat Officer, Makhu for investigation into the same.

4. On finding a *prima facie* case, charges were framed against the accused under Sections 420, 465, 468, 471 of the IPC to which they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined as many as 14 witnesses including the complainant, three Panches, all three enquiry officers, Bank Manager and two Naib Tehsildars. Subsequently, the petitioners were convicted by the trial Court vide judgment dated 08.07.2010. Aggrieved by the judgment of conviction, the petitioners approached the learned lower Appellate Court, where their appeals were dismissed vide judgment dated 27.01.2011.

CONTENTIONS

6. Learned counsel for the petitioners contend that they are not assailing the impugned judgment of conviction dated 08.07.2010 on merits and restricts their prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioners as Bikkar Singh has already undergone a period of 14 days of custody while Prabhjinder Singh has already undergone a period of 1 month 11 days of custody. He further submits that the sentence of petitioner-Bikkar Singh was suspended by this Court vide order dated 03.02.2011 and the sentence of petitioner-Prabhjinder Singh was suspended by this Court vide order dated 08.03.2011. Since the suspension of their sentence, they have not been involved in any other criminal activity. Furthermore, no other case is pending against them. Learned counsel further submits that both the petitioners are over 70 years of age and intend to live their life as law-abiding citizens.

7. *Per contra*, learned State counsel opposes the prayer of the petitioners as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has been upheld by the learned lower Appellate Court, as such, they do not deserve any leniency.

ANALYSIS AND OBSERVATIONS

8. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

9. In **Deo Narain Mandal v. State of UP (2004) 7 SCC 257**, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

10. As per the custody certificates produced by the learned State counsel, details of custody period of the petitioners are tabulated as under:-

Petitioner- Bikkar Singh:

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	27.01.2011 to 10.02.2011	14 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	27.01.2011 to 10.02.2011	14 days
5.	Actual undergone period	27.01.2011 to 10.02.2011	14 days
6.	Earned remission	-	-
7.	Total sentence including remission	27.01.2011 to 10.02.2011	14 days

Petitioner- Prabhjinder Singh:

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	27.01.2011 to 09.03.2011	1 month 11 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	27.01.2011 to 09.03.2011	1 month 11 days
5.	Actual undergone period	27.01.2011 to 09.03.2011	1 month 11 days
6.	Earned remission	-	-
7.	Total sentence including remission	27.01.2011 to 09.03.2011	1 month 11 days

11. A perusal of the judgment of conviction passed by the learned trial Court and the learned lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Learned counsel for the petitioners have not assailed the judgment of conviction on merits, rather they have restricted their prayer to quantum of sentence.

CONCLUSION

12. The FIR in the present case was instituted on 01.03.2000. Petitioners have been facing protracted proceedings for about 24 years and are not involved in any other criminal activity after their conviction in the present case and during the pendency of the present revision. Since their conviction, petitioners have grown into a law-abiding citizen and desire to live a peaceful life. Out of the total sentence awarded of 2 years, Bikkar Singh has already undergone a period of 14 days of custody while Prabhjinder Singh has already undergone a period of 1 month 11 days of custody. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment of 2 years awarded to the petitioners is reduced to the period already undergone by them.

13. Consequently, judgment dated 27.01.2011 passed by learned Additional Sessions Judge, Ferozepur, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 08.07.2010 is modified to the extent that the sentence of rigorous imprisonment for 2 years awarded to the petitioners is reduced to the period of sentence already undergone by them.

Consequently, the present revision is disposed of in the following terms:-

(i) The judgment dated 27.01.2011 passed by the Additional Sessions Judge, Ferozepur confirming the conviction of the petitioners is upheld, however, the order of sentence dated 08.07.2010 is modified to the extent that the sentence of rigorous imprisonment for 2 years along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs. 2000/- (Rs.500/- for each of the offences the petitioners are convicted for) imposed upon each of the petitioners by the learned trial Court is increased to Rs.10,000/- each. The petitioners are directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioners shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

14. In view of the above discussion, the present petitions are partially allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

19.01.2024
Neha

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