

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRR-979-2011
Date of Decision : April 19, 2024

HARWINDER SINGH

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. L.S.Sidhu, Advocate and
Ms. Asha Singh, Advocate as legal aid counsel
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana.

KULDEEP TIWARI, J. (Oral)

1. The instant revision petition is directed against the judgment of conviction and order of sentence dated 11.9.2009, as passed by the learned Chief Judicial Magistrate, Karnal vide which, the petitioner was convicted for the offences punishable under Sections 419, 420 and 471 IPC and vide order dated 12.9.2009, he was sentenced as under:-

U/s 419 IPC	RI for a period of one year and fine of Rs.1,000/- and in default of payment of fine to undergo rigorous imprisonment for a period of one month.
U/s 420 IPC	RI for a period of one year and fine of Rs.1,000/- and in default of payment of fine to undergo rigorous imprisonment for a period of one month.
U/s 471 IPC	RI for a period of one year.

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, Karnal, vide judgment dated 5.4.2011.

3. In the instant case, the FIR was registered on the basis of a statement, as suffered by Smt. Sushma Sharma, Lecturer, Government College for Women Railway Road, Karnal (complainant), on the allegations that during the examination, she found that accused-Ram Dass, son of Rameshwar Dass, resident of Dachar P.S. Nissing, District Karnal, was taking the B.A. Part-II, English paper, under roll no.62642 in place of original candidate, i.e. petitioner-Harvinder Singh son of Sawan Singh, resident of Habri, P.S. Pundri, District Kaithal. Accordingly the complainant called the Superintendent of the University concerned and both of them were apprehended, accused-Ram Dass, who signed as Harvinder Singh in attendance sheet and on questioning he admitted his fault in his own hand written statement, admitting that he is appearing in place of petitioner-Harvinder Singh, after taking money from him, to the supervisor. Accordingly, the Supervisor reported the matter to the SHO, P.S. Civil Lines, Karnal and a formal FIR No.93 under Sections 419, 420, 471 IPC dated 27.3.2003 was got registered. The police arrested the accused-Ramdass and took into possession his answer book and admission card and initiated the investigations in this regard. The petitioner-Harvinder was also arrested and both of them were called upon to give their specimen hand writing whereby petitioner-Harvinder Singh refused to give his specimen, but accused-Ram Dass consented for the same. Accordingly, the disputed hand writings and documents were sent

to FSL, Madhuban, for comparison along with admitted hand writings and signatures of both the Accused. Ultimately, the police completed the investigation and challan against the petitioner and co-accused-Ram Dass was presented in the trial court concerned.

4. The investigation was carried out, and the final report *qua* the petitioner was filed. Charges were framed against him under Sections 419., 420 and 471 IPC.

5. The prosecution, in order to establish charges against the accused person, examined complainant-Smt.Sushma Sharma, Assistant Supervisor as PW1, Sanjay Kumar as PW2, ASI Roshan Lal as PW3, Dr. Ramjit Lal as PW4, Ram Kumar, Lab Assistant FSL, Madhuban as PW5, Dr. Hari Parkash Sharma as PW6, Devender Singh Dhariwal as PW7. However, no witness was examined in defence by the accused.

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

7. Learned counsel for the petitioner as well as the learned Legal Aid Counsel for the petitioner at the very outset submits that they do not want to address arguments on merits of the instant petition. However, considering the mitigating and aggravating circumstances, they 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. They further submit that the present case was registered in

the year 2003, and it is almost 21 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, 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.

8. On the other hand, the learned State counsel, while opposing the asked for relief, filed custody certificate of the petitioner. The custody certificate of the petitioner reveals that he has undergone RI for 01 month and 14 days out of total sentence of one year imposed upon him.

9. This Court finds merit in the prayer as made by the counsel for the petitioner, as well as by the learned Legal Aid Counsel, *qua* reduction of sentence. Considering the antecedents of the petitioner and other aggravating and mitigating circumstances, as explained above, while maintaining balance between deterrence against crime *viz-a-viz* re-formative approach of punishment, this Court deems it fit and appropriate to reduce the period of sentence, as imposed upon the petitioner, to the period already undergone by him.

10. In view of the above, the instant revision petition is **partly allowed**. The judgment of conviction dated 11.9.2003, passed by the

learned Chief Judicial Magistrate Karnal and judgment dated 5.4.2011 passed by the learned Additional Sessions Judge, Karnal, are upheld. However, the sentence, as imposed upon the petitioner is reduced to the period already undergone by him.

April 19, 2024
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(KULDEEP TIWARI)
JUDGE

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