

238IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-2594-2012 (O&M)
Date of Decision: 14.03.2024

SURESH KUMAR

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CRR-478-2013 (O&M)
Date of Decision: 14.03.2024

NARENDER

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CRR-1456-2013 (O&M)
Date of Decision: 14.03.2024

RAM PRIYAJAN

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikram K. Chaudhari, Senior Advocate with
Mr. Parvez Chaudhary, Advocate
for the petitioner in CRR-2594-2012.
Mr. Kunal Kawar, Advocate
for the petitioner in CRR-478-2013
Mr. Ashwani Bhardwaj, Advocate
for the petitioner in CRR-1456-2013.
Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. These revision petitions have been preferred against two judgments dated 13.08.2012 and 17.12.2012 passed by learned Additional Sessions Judge, Faridabad vide which judgment of conviction and order of quantum of sentence dated 11.03.2011/12.03.2011 passed by learned Judicial Magistrate Ist Class, Faridabad in FIR No. 146 dated 12.08.2008

registered under Sections 419, 420, 467, 468, 471 and 120-B of Indian Penal Code at Police Station Bhupani, District Faridabad has been upheld.

The petitioners/revisionists was sentenced as under:

Offence	Sentence
Section 420 IPC read with Section 120-B of IPC	Rigorous Imprisonment for 03 years and fine of Rs. 1000/- with default mechanism
Section 467 IPC read with Section 120-B of IPC	Rigorous Imprisonment for 03 years and fine of Rs. 1000/- with default mechanism
Section 468 IPC read with Section 120-B of IPC	Rigorous Imprisonment for 03 years and fine of Rs. 1000/- with default mechanism
Section 471 IPC read with Section 1120-B of IPC	Rigorous Imprisonment for 03 years and fine of Rs. 1000/- with default mechanism

2. The present case was registered on the statement of complainant Mahender Singh (GPA of Smt. Munesh Kumari) on the allegations that Smt. Munesh Kumari wife of complainant is absolute owner and in possession of land bearing khewat No.345/336, khatoni No.475/472, khasra no.1815(0-7) gair mumkin 1816/1(0-5) gair mumkin total measuring 0-12 biswa pukhta situated within the revenue estate of Faridabad, Tehsil and District Faridabad which was purchased through registered sale deed bearing vasika No.28868 dated 26.3.2008 registered in the office of Sub Registrar, Faridabad and the Tark Kast registered vide vasika No.4647 dated 26.5.2008 in the office of Sub Registrar, Faridabad. The aforementioned property was previously owned by Smt. Ram Pyari wife of Shri Asha Nand son of Shri Khillu which was under the possession of Girdhari Lal and Chetan Dass both sons of Shri Bhagwan Dass in the capacity of gair morusi as per jamabandi for the year 1999-2000. Shri Asha Nand as well as Girdhari Lal and Chetan Dass both sons of Bhagwan Dass gair morusi had died long ago, therefore, his wife Munesh Kumari

purchased the ownership rights of the land in question from the legal heirs/legal representatives of Smt. Ram Pyari wife of Asha Nand. Since Smt. Ram Pyari wife of Asha Nand had died on 15.11.1993 and her husband Asha Nand had also died on 12.10.1997 leaving behind the legal heirs, therefore, all the legal heirs executed a registered sale deed with regard to the ownership rights of the land in question in favour of Munesh Kumari wife of complainant through registered sale deed dated 26.3.2008 bearing vasika No.28868 registered in the office of Sub Pegistrar, Faridabad. Similarly Shri Girdhari Lal died on 7.11.1969 and Chetan Dass died on 13.8.1992, therefore, their legal representatives executed Tark Kast with regard to the aforementioned land in favour of his wife Smt. Munesh Kumari through a registered document bearing vasika No.4647 dated 26.5.2008 registered in the office of Sub Registrar, Faridabad and since then the complainant is owner in possession of the entire piece of land. However, when the complainant contacted Patwari concerned for the purpose of sanctioning of mutations, then he was shocked and surprised to see that the aforementioned accused by impersonation had succeeded in forging and fabricating a fake sale deed as well as Tark Kast on behalf of Ram Pyari, Girdhari Lal and Chetan Dass who had already died. When all the aforesaid persons had already died then by impersonating Ram Pyari a sale deed was registered at vasika No.28159 dated 17.3.2008 with regard to the land in question in favour of Smt. Sharda Devi wife of Shri Prahlad and a fake GPA was also got prepared by the alleged fake Ram Pyari in favour of Prem Chand son of Shri Roshan Lal which was witnessed by Suresh Khanna Advocate and Shiv Dutt Nambardar. Similarly, the sale deed dated 17.3.2008 was drafted by M.K. Gaur, Advocate and in furtherance of their

common intention said Sharda Devi further executed a sale deed bearing vasika No.1805 dated 21.4.2008 in favour of Smt. Santra Devi wife of Shri Phool Singh which was witnessed by Shri R.C.Chauhan, Advocate and Phool Singh son of Bihari Lal. In addition to above further a forged Tark Kast was also got prepared by the aforesaid persons in furtherance of their common intention which was executed by Girdhari Lal and Chetan Dass although both had already expired on 7.11.1969 and 13.8.1992 respectively in favour of Smt. Ram Pyari on 13.8.1992 who has also died on 15.11.1993 and the said Tarak Kast was registered at vasika No.27214 dated 7.3.2008 which was witnessed by Shri Suresh Khanna, Advocate, Mange Ram son of Gugan and drafted by M.K.Gaur, Advocate. It further submitted in the complaint that all the accused forged and fabricated the documents in connivance with one another in order to cheat the complainant and played fraud upon the complainant. On the basis of these forged and fabricated documents Patwari concerned had initially sanctioned the mutation. When the complainant came to appellants-accused and Patwari concerned, then he came to know about the fraud played and after apprising him about the situation and showing him the documents requested him to cancel the mutations and sale deeds. He also contacted aforesaid appellants-accused but they threatened him with dire consequences. They threatened to eliminate him in case he proceeded against them in the Court. On the basis of this complaint FIR was registered. Relevant record was collected. Statements of witnesses were recorded and after completion of necessary investigation, challan was presented before the Court.

3. The petitioners were convicted vide judgement dated 11.03.2011 by the learned trial Court which has also been upheld by lower appellate

court vide judgments dated 13.08.2012 and 17.12.2012 passed by learned Additional Sessions Judge, Faridabad.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 11.03.2011 on merits and restricts his prayer to modification of the order of quantum of sentence dated 12.03.2011 to that of the sentence already undergone by the petitioner-Ram Priyajan, who has already undergone a period of 02 years and 05 days and petitioner-Narender, who has already undergone a period of 11 months and 16 days and petitioner-Suresh Kumar, who has already undergone a period of 03 months and 09 days.

5. 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 also been upheld by the learned lower Appellant Court and as such, they do not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. 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.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, Learned counsel for the petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

9. The FIR/complaint in the present case was lodged on 12.08.2008 and the petitioners have been suffering the agony of trial since the last 15 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desires to live a peaceful life. As per their custody certificate, petitioners Suresh Kumar and Ram Priyajan have not been involved in any other case, whereas petitioner-Narender has been convicted in one more case and had undergone actual sentence of 02 years 05 days by petitioner-Ram Priyajan, 11 months 16 days by petitioner-Narender Kumar and 03

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months and 13 days by petitioner-Suresh Kumar, out of total sentence of 03 years in the instant case.

10. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

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

(i) The judgments dated 13.08.2012 and 17.12.2012 passed by learned Additional Sessions Judge, Faridabad affirming the judgment of conviction, is upheld, however, the order of sentence dated 12.03.2011 is modified to the extent that the sentence of rigorous imprisonment for 03 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. 4000/- each imposed upon the petitioners by the trial Court is increased to Rs. 10000/- 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.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

14.03.2024
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No