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CRR-285-2010 (O & M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(201-2)

Date of Decision: 20.02.2025

1) CRR-285-2010 (O&M)

Davinder KaurPetitioner

Versus

State of Punjab ...Respondent

2) CRM-A-1185-MA-2010 (O&M)

Hardip SinghPetitioner

Versus

Satnam Singh and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Navdeep Chhabra, Advocate,
for the petitioner (in CRR-285-2010).

Mr. Narinder Lucky, Advocate,
for the applicant (in CRM-A-1185-MA-2010)
and for the complainant in (CRR-1185-2010).

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

This order shall dispose of two matters i.e. one criminal revision petition bearing No.**CRR-285-2010** on behalf of accused-petitioner, namely, Davinder Kaur and one leave to appeal bearing No.**CRM-A-1185-MA-2010** on behalf of complainant-applicant, Hardip



Singh as the same arise out of the same FIR.

2. The prayer in the revision petition is for setting aside the judgment dated 13.11.2009 passed by the Sessions Judge, Kapurthala whereby the Criminal Appeal No.41 dated 28.08.2008 filed by the accused-petitioner-Davinder Kaur alongwith her co-accused against the judgment of conviction and order of sentence dated 29.07.2008 passed by the Additional Chief Judicial Magistrate, Kapurthala, has been dismissed.

3. The prayer in the criminal miscellaneous application is for setting aside the judgment dated 13.11.2009 passed by the Sessions Judge, Kapurthala whereby the Criminal Appeal No.55 dated 03.10.2008 filed by the complainant-applicant/Hardip Singh seeking enhancement of sentence of the accused has been dismissed.

3. For the sake of convenience, the facts are taken from the revision petition CRR-285-2010.

4. The FIR in the present case came to be registered on 06.07.2006. The judgment of conviction and order of sentence was passed on 29.07.2008. Separate appeals filed against the judgment of conviction and order of sentence were dismissed vide a common judgment on 13.11.2009 by the Sessions Judge, Kapurthala. The instant revision petition as well as the criminal miscellaneous application were filed on 01.02.2010 and 05.03.2010 respectively and have come up for final hearing now i.e. after a period of almost 19 years from the date of registration of the FIR.

5. As per the case of the prosecution, the complainant-Hardip Singh got registered the FIR in question with the allegations that Balwinder



Singh, Davinder Kaur wife of Balwinder Singh and Satnam Singh son of Balwinder Singh had cheated him for a sum of Rs.14 lacs on the pretext of sending him abroad. On the basis of the allegations, the investigation was conducted and the report under Section 173(2) Cr.P.C. was presented. On culmination of the Trial, all the accused came to be convicted and sentenced by the court of the Additional Chief Judicial Magistrate, Kapurthala vide judgment of conviction and order of sentence dated 29.07.2008 as under:-

Offence	RI Sentence	Fine	RI in default of payment of fine
U/S 420 IPC	02 years each	Rs.1000/- each	01 month each
U/S 24 of the Immigration Act	06 months each	--	--

Both the sentences were ordered to run concurrently.

6. The accused-petitioner/Davinder Kaur alongwith her co-convicts preferred an appeal (Crl.Appeal No.41 dated 28.08.2008) against the conviction whereas the complainant-applicant/Hardip Singh sought enhancement of sentence by way of an appeal (Crl.Appeal No.55 dated 03.10.2008). Vide a common judgment dated 13.11.2009 passed by the Sessions Judge, Kapurthala, both the appeals came to be dismissed.

7. Thereafter, while impugning the aforementioned judgments, the accused-petitioner/Davinder Kaur has filed the instant revision petition (CRR-285-2010) against her conviction whereas the complainant-applicant/Hardip Singh has filed the application (CRM-A-1185-MA-2010) for enhancement of the sentence of the accused/respondents No.1 to 3.

8. During the pendency of the instant revision petition (CRR-285-



2010), the sentence of the accused/petitioner was suspended vide order dated 05.03.2010 passed by this Court.

9. The learned counsel for the accused-petitioner (in CRR-285-2010), at the very outset, submits that he does not wish to challenge the conviction of the accused-petitioner but prays that as she is a lady of the age of approximately 65 year and has undergone almost 11 months of her substantive sentence of 02 years, her sentence be reduced to the period already undergone by her.

10. The learned counsel for the complainant-applicant (in CRM-A-1185-MA-2010), on the other hand, seeking enhancement of sentence contends that the accused-petitioner does not deserve any sympathy but prays that, in case, her substantive sentence is reduced, the fine amount may be enhanced and ordered to be paid to the complainant.

11. The learned counsel for the State, on the other hand, contends that as the offence stands established beyond doubt, the accused is not entitled to any sympathy of reduction of sentence. He, however, concedes that the accused is of the age of 65 years and has undergone almost 11 months of custody.

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

13. A perusal of the evidence on record would conclusively establish that the accused/petitioner and her co-accused received a sum of Rs.14 lacs to send the complainant abroad but did not do so. A cheque for a sum of Rs.10 lacs was issued which came to be dishonoured. Therefore, the offence stands established beyond reasonable doubt.



14. Resultantly, no fault can be found with the well-reasoned judgments of the Trial Court dated 29.07.2008 and the Lower Appellate Court dated 13.11.2009. Therefore, the present revision petition stands dismissed.

15. As regards imposition of sentence, the petitioner is a lady of the age of 65 years. Admittedly, the FIR was registered in the year 2006 and as many as 19 years have passed ever since then. Therefore, she has suffered protracted judicial proceedings. Therefore, while upholding the conviction of the accused/petitioner (in CRR-285-2010), her sentence is modified as under:-

Offence U/S	RI Sentence	Fine	In default of payment of fine
420 IPC	Reduced to the period already undergone i.e. 10 months and 27 days	Rs.1,00,000/- (To be paid to the complainant)	To undergo the complete sentence i.e. RI 02 years
24 Immigration Act	06 months (As both the sentences were ordered to run concurrently, no separate order needs to be passed for the modification of the sentence for the offence under the Immigration Act.)	--	--

16. The present revision petition (CRR-285-2010) stands disposed of in the above terms alongwith the pending applications, if any.

CRM-A-1185-MA-2010

In view of the order passed in the connected petition i.e.

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CRR-285-2010, the present petition has been rendered infructuous and is disposed of as such alongwith the pending application, if any.

A photocopy of this order be placed on the file of the connected case.

(JASJIT SINGH BEDI)
JUDGE

February 20, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No